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THE MODERN PRACTICE OF *LEVYING FINES* AND SUFFERING RECOVERIES, &c. &c.

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THE MODERN PRACTICE OF *LEVYING FINES* AND SUFFERING RECOVERIES, IN *THE COURT OF COMMON PLEAS,* AT WESTMINSTER.

WITH AN APPENDIX OF *SELECT PRECEDENTS.*

By W. Hands, Gent.
ONE OF THE ATTORNIES OF THE COURT.

LONDON:
Printed by G. Auld, Greville Street,
FOR J. BUTTERWORTH, FLEET-STREET.

1800.

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OCT

TO

THE RIGHT HONOURABLE

JOHN LORD ELDON,

LORD CHIEF JUSTICE OF HIS MAJESTY'S COURT OF COMMON PLEAS, AT WESTMINSTER,

THIS BOOK

IS

(By his Lordſhip's Permiſſion)

MOST HUMBLY INSCRIBED

By his Lordſhip's much obliged

and obedient humble Servant,

Mark-Lane, London,
January, 1800.

William Hands.

PREFACE.

ALTHOUGH there are annually ſome hundreds of Fines levied and Recoveries ſuffered in the court of Common Pleas, at Weſtminſter, yet, it not having appeared to the compiler that any of the books of practice, or treatiſes on fines and recoveries, ſhew ſufficiently the modern practice of paſſing them, he conceived the pointing out the preſent mode of levying the one and ſuffering the other, would aſſiſt the junior practitioner, and enable him to conduct with eaſe and accuracy this part of his buſineſs. Indeed, the difficulty which the compiler himſelf felt, not only during his clerkſhip, but alſo in the early part of his practice as an Agent, and otherwiſe, for

want of ſuch a directory, induced him to attempt the elucidation of the ſubject in the following ſheets: and ſhould it prove in the leaſt degree uſeful to any part of that branch of the profeſſion, of which he is himſelf a member, he will have arrived at the end he aimed at. But here he cannot refrain from returning the gentlemen at the different offices his ſincere thanks for their liberal communications to him on the ſubject; and he begs leave to inform the reader, that if any utility is found in the compilation, the merit of it belongs to them, and not to the compiler. As to the inaccuracies which may have eſcaped the compiler's attention, he truſts the profeſſion will view them with their accuſtomed indulgence.

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INTRODUCTION.

INTRODUCTION.

FINES are ſolemn conveyances on record from the conuzors or perſons levying them, to the conuzees or perſons to whom they are levied; being inſtruments or aſſurances containing a final agreement concerning lands, tenements, hereditaments, or other things, made with the King's licence before his Juſtices of the Court of Common Pleas, or others thereunto authorized, and engroſſed upon record in the ſame court, there to remain for ever, for the *ending* of all controverſies, as well between the parties and privies to the ſame, as all ſtrangers not claiming in due time; and by them lands may be conveyed in fee-ſimple, fee-tail, for life, or years, and a rent may alſo be thereby reſerved †. The nature of fines.

† Billinghurſt's Ar. Cler. title Fines.

And

Their ſeveral ſorts.

And fines are generally divided into *four* ſorts, Firſt, *Sur conuzance de droit come ceo, &c.* which is called a Feoffment on Record, inaſmuch as it acknowledges a former gift of the lands in queſtion, and gives the conuzee a ſeiſin in law, without any actual livery, and is therefore alſo called a Fine Executed, whereas the others are but executory; for unleſs the parties to whom they are levied are in poſſeſſion at the time of levying them, they cannot enter into poſſeſſion without writs of execution. Secondly, *Sur conuzance de droit tantum,* upon an acknowledgement of the right merely. Thirdly, *Sur conceſsit,* granting an eſtate de novo, uſually for life or years. Fourthly, *Sur donne grant and render,* which is a double fine, comprehending the fines ſur conuzance de droit come ceo, &c. and ſur conceſſit *.

With and without proclamations.

The firſt-named fine is always levied with proclamations; ſo it ſeems is the fourth; but the ſecond and third without †: and fines levied with proclamations by perſons of full age, to whom or to whoſe anceſtors lands have been entailed, are a perpetual bar

* 2 Blac. Com. c. 21.

† Billinghurſt's Ar. Cler. title-Fines.

to

to them and their heirs, claiming by force of ſuch entail *; but ſuch fines muſt be openly read and proclaimed in court four times, *i. e.* once in the term the fine is engroſſed, and once in each of the three ſucceeding terms †.

The *fine ſur conuzance de droit come ceo, &c.* § is commonly uſed by a tenant in tail to *bar* the *eſtate tail*, but it will not bar him in reverſion or remainder; for to bar a remainder-man or reverſioner, a recovery muſt be ſuffered ‡, though a tenant in tail, with the reverſion in fee in himſelf, ſubject to a life-intereſt, may by this fine acquire a fee-ſimple in and the abſolute dominion over his eſtate, ſubject to the life-intereſt: ſo it is alſo uſed on the ſale of lands to a purchaſer, or conveyance of them to a mortgagee in fee, by a tenant in fee-ſimple having a wife entitled to dower, in order to *bar* ſuch *dower*, as married women are permitted to convey their eſtates by fine; and it is the uſual and indeed almoſt the only method whereby they can join in the ſale, &c. Their general uſes.

* 32 H. 8. c. 36.
† 31 Eliz. c. 2.
§ See Appendix *d*, *x*, *b b*, *c c*, *d d*.
‡ See p. 12.

of

of their eſtates *; beſides which, it is ſometimes uſed for the purpoſe of *ſtrengthening* the title, and having the benefit of the five years *non-claim:* but if a tenant for *life* levies or accepts of this fine, it will operate as a *forfeiture* of his eſtate, unleſs the perſon who has the next eſtate of inheritance joins †. The fine *ſur conuzance de droit tantum*, is uſed to paſs a reverſionary intereſt ‡. The fine *ſur conceſsit*, for granting an eſtate for *life* or *years*, and on which a *rent* may be *reſerved* §, or the like; and the fine *ſur donne grant and render*, may be uſed to create *particular limitations* of eſtates ||, and wherein the conuzee grants back again to the conuzor, or a ſtranger, ſome other eſtate in the premiſſes ¶.

The nature of common recoveries.

Common recoveries are now conſidered as the formal mode of conveyance, by which tenants in tail are enabled either to turn their eſtates tail into a fee-ſimple, or to alien their lands for their own benefit |||, as they

* 2 Blac. Com. c. 21.

† Cruiſe on Fines and Recoveries, c. 12.

‡ See Appendix, *e e.*

§ Ibid, *f f.*

|| Ibid, *g g.*

¶ 2 Blac. Com. c. 21.

||| Ibid. and ſee Goodtitle on the demiſe of Bridges v. the Duke of Chandos. 2 Burr. 1065.

bar

bar all the eſtates *tail*, and all *remainders* and *reverſions* expectant on the determination of ſuch eſtates *, and as they eſtop all parties, if a tenant in *dower*, or a *jointreſs*, join in a common recovery, ſhe will be barred †; ſo if a *feme covert*, ſhe will alſo be barred of her *dower*, and of any *particular intereſt* ſhe may have in the lands ‡; ſo common recoveries alſo bar *contingent remainders* §, *truſt eſtates*, *powers appendant*, or *in groſs* ‖: but *not* a *power collateral* to the land, nor *executory deviſes*, *ſpringing uſes* ¶, *poſſibilities* **, or *contingent executory eſtates* ††. And here it may be obſerved, that when an *heir* in tail is diſinherited by a common recovery, he is entitled in a court of equity to have an *inſpection* of the recovery and deeds, making the tenant to the precipæ ‡‡.

But common recoveries are in fact *fictitious actions*, wherein the lands, &c. are re- With ſingle voucher.

* 2 Blac. Com. c. 21.
† Pigot of Com. Rec. p. 123
‡ 2 Cruiſe on Fines and Recoveries, c. 11.
§ Pigot of Com. Rec. p. 125.
‖ 2 Cruiſe on Fines and Recoveries, c. 11.
¶ Pigot of Com. Rec. p. 123.
** Ibid. p. 129.
†† Ibid. p. 134.
‡‡ Earl of Suffolk *v.* Howard, 2 Peere Williams 117, and Battiſon *v.* Fairingdon. 3 Ibid. 363.

covered againſt the tenant of the freehold thus: *D. E.* for inſtance is tenant in tail in poſſeſſion, and deſirous of ſuffering a common recovery, in order to bar all intails, remainders, and reverſions, and to convey the ſame in fee-ſimple to *F. G.* a purchaſer, to whom we may ſuppoſe he has previouſly ſold the eſtate: to effect this *G.* brings an action againſt *E.* for the lands, by ſuing out a writ of entry, wherein *G.* (now called the *demandant*) alleges in effect that *E.* (now called the *tenant*) has no legal title to the land, but that he came into poſſeſſion of it after a ſtranger, named *Hugh Hunt*, who *G.* alſo alleges turned him out of it; to which *E.* appears either in perſon or by attorney; whereupon *G.* declares, when *E.* pleads and calls upon another ſtranger, who is the *Bag Bearer* for the time being of the cuſtos brevium of the court, and therefore called the *common vouchee* now *Thomas Francis Martin*, who is ſuppoſed at the original purchaſe to have warranted the title to *E.* and prays that he may be called in to defend the title which he ſo warranted; upon which *M.* the common vouchee, appears, is impleaded, and defends the title; whereupon *G.* deſires leave of the court to imparle, which is granted; and afterwards *G.* comes

into

into court, but the common vouchee does not appear, therefore judgement is thereupon given for *G.* the demandant (now called the *recoverer*) to recover his ſeiſin againſt *E.* (now called the *recoveree*) of the lands, and *E.* has judgement to recover of the common vouchee, land of the value of the lands ſo recovered by *G.* and ſuppoſed to be warranted by him, and loſt by his default in not appearing, which is called the recovery in value; but the common vouchee having no lands of his own, *E.* has only a nominal recompenſe for the lands ſo recovered of him by *G.* though ſuch lands are now abſolutely veſted in *G.* by judgement of law, and the ſeiſin thereof is ſuppoſed to be delivered to him by the ſheriff of the county; ſo that this colluſive recovery operates merely in the nature of a conveyance in fee-ſimple from *E.* the tenant in tail to *G.* the purchaſer*.

With double, treble, or farther voucher.

The recovery above deſcribed is with a ſingle voucher only, but it is ſuffered with *double* and ſometimes *treble* or *farther* voucher, as the exigency of the caſe may require: indeed it is now uſual always to ſuffer a recovery with double voucher, at leaſt

* And ſee 2 Blac. Com. c. 21.

by the tenant in tail in poſſeſſion, firſt conveying an eſtate of freehold to ſome indifferent perſon, which is called making a tenant to the precipæ, and againſt whom the precipæ, that is the writ of entry, is brought, inaſmuch as the writ muſt be brought againſt one that is actually ſeiſed of the freehold *, and then he vouches the tenant in tail, who vouches over the common vouchee; for if the recovery be had immediately againſt the tenant in tail, it bars only ſuch eſtate in the premiſſes as he is *then* actually ſeiſed of; whereas if the recovery be had againſt another perſon, and the tenant in tail be vouched, it bars every *latent* right and intereſt which he may have in the lands recovered: therefore if *E.* be tenant of the freehold in poſſeſſion, either in conſequence of the freehold having been conveyed to him for the purpoſe, by *B.* the tenant in tail in poſſeſſion, or by being tenant of the eſtate for life, and *B.* be the tenant in tail, *E.* firſt vouches *B.* and then *B.* vouches the *common vouchee*, who makes default, whereby the demandant *G.* recovers the land againſt *E.* the tenant; who recovers a recompenſe of equal value againſt *B.* the firſt vouchee; who recovers the like againſt the

* Pigot of Com. Rec. p. 28.

common

common vouchee, againſt whom ſuch ideal recovery in value is always ultimately awarded *. And if there be father tenant *for life*, remainder to the ſon *in tail*, and *remainder over*, it is ſafeſt to ſuffer the recovery with *treble* voucher, in which the tenant to the precipæ ſhould vouch the father, and the father the ſon, and the ſon the common vouchee; for by this means if the father has any ancient intail veſted in him, he coming in as vouchee it is barred, which would not be if the precipæ was brought againſt him, and he vouched the ſon †. Indeed it ſeems if the precipæ is brought againſt the tenant for life and tenant in tail jointly, the recovery will not bar the intail ‡; but if the precipæ be brought againſt the tenant for life, and he vouches the tenant in tail, who vouches over the common vouchee, then on this double voucher, he in remainder is barred §.

Deeds leading and declaring the uſes of fine and recoveries.

But unleſs the uſes of fines and recoveries are declared, they enure only to the uſe of

* 2 Blac. Com. c. 21. and ſee Appendix, *a a a*.

† Pigot of Com. Rec. p. 26.

‡ Ibid. p. 35.

§ 1 Gilbert's Evidence, by Loſt, 30.

the perſon who levies or ſuffers them *; and therefore whenever a fine is levied, or a recovery ſuffered, the conuzor or vouchee, either previous or ſubſequent to the levying the one or ſuffering the other, by ſome deed declares the uſes it is to enure to; and if ſuch deed is made previous, it is called a deed to *lead* the uſes; if ſubſequent, a deed to *declare* them †: but the deed to declare the uſes is now the moſt common, eſpecially in recoveries, as we have already obſerved that it is uſual for the tenant in tail to come in as vouchee, and therefore he commonly makes a tenant to the precipe by ſome previous deed, and it is therein declared what uſes the recovery is to enure to; and if the fine is levied, or recovery ſuffered, on a ſale of the eſtate, by the tenant in tail to a purchaſer, and not merely to turn the eſtate tail into a fee-ſimple, by cutting off the intail; then the former is covenanted to be levied, or the latter ſuffered, and the uſes declared in the deed of conveyance, uſually in the releaſe of the premiſſes to the purchaſer ‡.

* Armſtrong on the demiſe of Neve *v.* Wolſey, 2 Wil. 19.

† 2 Blac. Com. c. 21.

‡ See 5 Wood's Conveyancing, by Powell, title Leaſes and Releaſes.—3 and 4 Williams's Precedents in Conveyancing, title Releaſes.

The

The *theory* of fines and recoveries being beyond the compiler's province, he intending only to ſhew the *practice* ſo far as relates to the levying and ſuffering them, he muſt refer the reader to the writers who have treated on the ſubject *, for the doctrine of fines and recoveries, and the other particulars, not here noticed; and therefore he ſhall now only premiſe that fines may be levied of ſuch things in England, either eccleſiaſtical or temporal, as are inheritable, and in being at the time of levying them †; and it ſeems fines have been levied of lands out of England too, by deſcribing them under a *videlicet*, of ſome place in England, as "500 acres of land in the Iſland of Antigua, that is to ſay, in the pariſh of Saint Mary, Iſlington, in the county of Middleſex ‡." And they may be levied on a writ of right, or upon any other writ which concerns land, or whereby land is demanded, or may be recovered §; but they are now univerſally

What things fines may be levied, and recoveries ſuffered of, and on what writs.

* Billinghurſt's Arc. Cler.—Pigot of Com. Rec.—Wilſon on Fines and Rec.—Cruiſe on Fines and Rec. —Wood's Conveyancing.—Bacon and the other abridgements, &c.

† Billinghurſt's Arc. Cler. title Fines.

‡ Forſter v. Pollington and Wife, and others, Barnes's Notes, title Fines, 216.

§ Billinghurſt's Arc. Cler. title Fines.

levied on a writ of *covenant*, which is a real action *. So recoveries may in general be ſuffered of the ſame things, as fines may be levied, and they are ſuffered on writs of *entry*, except the recovery be of an advowſon in groſs, for then it is ſuffered on a writ of *right of advowſon* †, though if any land be joined with the advowſon, the recovery may be ſuffered on a writ of entry ‡; but regularly neither fines can be levied nor recoveries ſuffered in the Court of Common Pleas, of copyhold, or ancient demeſne lands, as in ſuch caſe they may be reverſed by writ of Deceit §, but ſtand good until they are ſo reverſed ‖.

Amending fines and recoveries.

And *fines* and *recoveries* being conſidered as common aſſurances, *clerical errors*, and *other miſtakes*, when there is any thing to amend by ¶, are allowed to be *amended*; therefore if while the fine is being levied, or recovery ſuffered, or afterwards any ſuch

* Salk. 340.

† See Appendix, *k k k*.

‡ Bayley *v.* the Univerſity of Oxford, 2 Wil. 116.

§ 1 Cruiſe on Fines and Recoveries, c. 24. 2 Ibid. c. 14. and ſee Appendix, p. 129; and the King *v.* Firebrace, Bart. and others, Barnes's Notes, title Judgements; and Same *v.* Mead, and others, 2 Wil. 17.

‖ Pigot of Com. Rec. 104.

¶ 8 Hen. 6. c. 12.

error

error or miſtake ſhould be found in either, it may be amended; and the manner of getting the amendment made in *term time* is for the perſon whoſe intereſt it is to make the application, to apply by *motion* to the court, on an *affidavit* of the circumſtances, accompanied by the *deeds*, leading or declaring the *uſes* of the fine or recovery for an order to make the requiſite amendment; upon reading of which the court uſually grant a *rule* for the other intereſted parties to *ſhew cauſe* why the amendment ſhould not be made, which, after hearing their counſel againſt it, or by their conſent, or upon an affidavit of ſervice, if they do not appear, is made *abſolute*; and then upon the production of the order to the officers of the court, they will make the amendment ordered; and in *vacation* a judge at chambers will make the requiſite order in ordinary caſes*.

Where there is occaſion to ſearch † for fines or recoveries, the proper office to ſearch Searching for them.

* But ſee the particular caſes in which amendments have and have not been allowed, collected together to the year 1794, in the third edition of Cruiſe on Fines and Recoveries, v. 1. p. 145. and v. 2. p. 203. and from that period in the Common Pleas Term Reports.

† You pay four pence a term for the ſearch.

for

for *fines* is the *King's Silver Office* *, where they are entered in the books of the office every term alphabetically by the counties; and which entries contain the parties names, a particular deſcription of the parcels, the commiſſioners before whom the fine was acknowledged, the time when, the return of the writ of covenant, the pre and poſtfines, and the ſolicitors names: and the proper office to ſearch for *recoveries* in the *warrant of attorney office* †, where they are entered in the books of the office every term alphabetically by the counties; and which entries comprize, firſt, the county; ſecondly, the names of the demandant and tenant; thirdly, the parcels; and fourthly, the name of the vouchee, with the number of the roll.

Caveats againſt them.

And when *caveats* are intended to be entered againſt fines or recoveries, paſſing

* The books in this office contain the above particulars of all the fines levied from the 1ſt Edw. VI. *i. e.* 1547 to the preſent time; which particulars the clerk of the warrants collects from the rolls delivered over to him by the prothonotary, and then he delivers the rolls to the clerk of the Eſſoins, who fills them in the treaſury of the court.

† The books in this office contain theſe particulars of all the recoveries ſuffered from the 22d Henry VII. *i. e.* 1507 to the preſent time.

the

the places for entering them againſt *fines*, is the *King's Silver Office* and *Judge's Chambers*; and againſt *recoveries*, the *Judge's Chambers*; and the manner of entering the caveat is to leave a written requeſt at the office and Judge's chambers, to ſtop the fine or recovery when it comes there, and to give you notice thereof*: the clerk then gives you the notice deſired, immediately upon the receipt of which (as the caveat is only for the purpoſe of giving the parties an opportunity of taking the opinion of the court on the matter before the fine or recovery is completed) the perſon, entering the caveat againſt the paſſing the fine or recovery, applies in *term* to the *court* by *motion* on an *affidavit* of the circumſtances, to ſtop the fine or recovery from paſſing, and then a rule *niſi* is uſually granted, which is afterwards made *abſolute* or *diſcharged*, as the ultimate opinion of the court may be; as the court will on motion, in this ſtage of the proceedings, and even where the fine or recovery is completed, ſet it aſide and vacate it, on account of the *fraud*, *incapacity*,

* At the Judge's chambers you pay the clerk on leaving it 2s. 6d. and which ſtands in force for twelve months: at the King's Silver you pay 3s. 4d. where it muſt be renewed every term.

or *previous death* of the parties levying or ſuffering it; and in *vacation* the *Judge* determines the matter at *chambers*, after hearing what is alleged by both parties.

Giving them in evidence, &c.

To prove a *fine* at *common* law, you have only to produce either part of the indentures of the fine, which is called the *Chirograph*, as that is evidence to all perſons of ſuch fine, for the chirographer is appointed to give out copies between the parties, of thoſe agreements that are lodged of record, and therefore his copy is admitted as evidence *; but where the fine is to be proved with *proclamations*, under the *ſtatute* to bar *a ſtranger*, you muſt get an *office copy* of the fine, with the *proclamations* indorſed thereon from the chirographer's office, and the perſon who is to produce and prove it on the trial, muſt examine the ſame with the record; for though the chirographer is authorized by the common law to make out copies to the parties of the fine itſelf, yet he is not appointed by the ſtatute to copy the proclamations, and therefore his indorſement on

* Buller's Niſi Prius, 229.—1 Gilb. Evidence, by Loft, 25.

the

the back of the fine is not binding *; and as the fine is of no force againſt ſtrangers, if the party levying it was *not in poſſeſſion* at the time, it muſt be proved that he *was* to give the fine effect †. And here we may obſerve, that if a man have *two* manors of the ſame name, as *Dale* for inſtance, and levies a fine of the manor of *Dale*, circumſtances may be given in evidence, to prove which manor he intended to paſs; for ſince the fine is uncertain by the identity of the name, it is fit it ſhould be reduced to a certainty by proof, that the fine may not loſe the operation which the parties intended ‡. So it may not be improper here to obſerve, that the *tenant* in *poſſeſſion* will not be allowed as an evidence to prove the eſtate of his *landlord* who levies a fine, becauſe he would then be a witneſs to ſupport his own poſſeſſion §. And where an ejectment

* Buller's Niſi Prius, 229.—1 Gilb. Evidence, by Loft, 26.

† Lord Townſend *v.* Aſh, 3 Atk. 36.—1 Cruiſe on Fines and Recoveries, 114.—Doe on the demiſe of Foſter *v.* Williams, Cowp. 621.

‡ Buller's Niſi Prius, 229.—1 Gilb. Evidence, by Loft, 26.

§ Doe on the demiſe of Foſter *v.* Williams, Cowp. 621.

is

is brought for lands paſſed by a fine, the common confeſſion of leaſe, entry, and ouſter, is not ſufficient, for an *actual* entry muſt be *proved* to have been made * *on* the *land* †, either by the party himſelf, or ſome one for him, by his aſſent ‡, and that within one year previous to the commencement of the action §, and which muſt alſo precede the demiſe in the declaration ‖. *To* prove a *recovery*, you firſt produce the *exemplification* of it, and as it is eſſential that there be a *tenant* to the *precipæ*, the perſon ſued in the recovery muſt be ſeiſed of the *freehold*, and in a *modern* recovery this *ſeiſin* muſt be *proved* ¶; but when a recovery is *ancient*, you need *not* prove any ſeiſin in the tenant to the precipæ, as in that caſe it will be preſumed that he was ſeiſed at the time of the recovery, eſpecially when the poſſeſſion has gone agreeably to it ever

* Jenkins *v.* Prichard, 3 Burr. 1897. — Buller's Niſi Prius, 103.

† Anon. Skin. 412.

‡ Fichet *v.* Adams, 2 Stra. 1128.

§ 4 Ann. c. 16. ſ. 16.

‖ Berrington *v.* Parkhurſt, 2 Stra. 1086.

¶ Buller's Niſi Prius, 230. — 1 Gilb. Evidence, by Loft, 29.

ſince,

ſince *, and there are any circumſtances in the caſe to build the preſumption on, and the contrary does not appear †; but not where it does appear ‡, or there are no facts to raiſe the preſumption §.

* Buller's Niſi Prius, 230. — 1 Gilb. Evidence, by Loft, 29.

† Warren on the demiſe of Webb *v.* Grenville, 2 Stra. 1129.

‡ Keen on the demiſe of the Earl of Portſmouth and others *v.* the Earl of Effingham, 2 Stra. 1267.

§ Goodtitle on the demiſe of Bridges and others *v.* the Duke of Chandos, 2 Burr. 1065.

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THE MODERN PRACTICE OF *LEVYING FINES*, AND SUFFERING RECOVERIES.

FINES may be levied ſeveral ways; for though in the indentures of them the agreement of the parties is ſaid to be made in Court, yet in fact very few, comparatively ſpeaking, are acknowledged there; in as much as they may not only be acknowledged in Court, but alſo before the Chief Juſtice out of Court, by virtue of his office, or before either of the other Judges of the Courts at Weſtminſter, a Baron of the Exchequer, or a Serjeant at Law, as well as before Commiſſioners, by virtue of a writ of dedimus poteſtatem. But the moſt uſual way of acknowledging fines being before Commiſſioners, by dedimus, we ſhall firſt ſhew the manner of acknowledging the fine ſo; 2dly, before the Chief Juſtice; 3dly, before

Of the acknowledgment of Fines.

fore either of the other Judges, or a Baron, or Serjeant; and 4thly, in Court; and then how it is passed through the different offices, and so completed.

by writ of dedimus potestatem, where all the Conuzors are in England.

When the fine is intended to be acknowledged before *Commissioners*, the first step is to get a writ of *dedimus potestatem*, which issues out of the Court of Chancery, and is made out by the Cursitor, of course, for that purpose. To obtain it, you must make a precipe for the dedimus *; and a copy of it, and the retainer, or warrant †, filled up with the party's and attorney's names, must be taken to the Cursitor's office, and left with the Cursitor of the county's clerk, at his seat, who will thereupon prepare the writ ‡, get it signed by the Lord Chancellor, and passed under the Great Seal; and then the writ is complete, and will be delivered to you by the Cursitor, when called for, folded and sealed up. The wax may then be broke off, the writ opened, and a fair copy of the precipe (in which the parcels must be placed as in the writ) should be made with the concord under it, on parchment ||, and then either two of the Commissioners may proceed to take the *acknowledgments* in the following manner:

* See Appendix, *a* and *b*. † 25 Geo. III. c. 80.
‡ Ibid. *c*. || See Appendix *d*, and *bb* and *c*.

The

The Conuzors being out of priſon *, and the Commiſſioners being ſatisfied that they are of full age and competent underſtanding, ſhould read the concord over to, and alſo inform them of the nature and conſequence of the fine; when they are to acknowledge their conſent thereto †, and alſo to write their names, or ſign their marks, at the foot of the concord ‡; and if either of the Conuzors is a married woman, the Commiſſioners muſt take her apart from her huſband, and ſee that ſhe freely acknowledges it §. The Commiſſioners ſhould then ſign the caption under the concord, and indorſe their *return* on the back of the dedimus ‖; and one of them, or ſome other perſon who knows the parties, and were preſent when the fine was acknowledged, muſt make an affidavit thereof ¶, and then the dedimus may be taken to the Curſitor, and he will thereupon make out the writ of *covenant*, which alſo iſſues out of the Court of Chancery, but returnable in the Court Common Pleas **. When that is got, †† the whole ſhould be pinned together, and taken

* 18 Edw. I. ſt. 4.

† Levying a fine in the name of another, is felony without benefit of clergy. 21 James I. c. 26.

‡ See Appendix, *d*. § 18 Edw. I.

‖ Ibid. *e*. ¶ Ibid. *f*. ** Ibid. *g*.

†† Order Tr. T. 30 Geo. III.

to the chambers of either of the Judges of the Court of Common Pleas, for his allocatur thereon, as there muſt be an allowance of the caption by one of the Judges of the Court before the fine can paſs the offices *; and the Clerk will thereupon write the *allocatur* ‖ at the foot, or on the back of the concord, and get it ſigned by the Judge; and which he uſually gets done in the courſe of a day or two after they are left; and then the fine may be paſſed through the offices as hereafter ſhewn †.

Where ſome are out of England.

But if any of the Conuzors are *out of* England, the names of two perſons living where ſuch Conuzors are, muſt be inſerted in the precipe for the dedimus, as Commiſſioners, to whom the writ ſhould be ſent with the precipe and concord, for them to take the acknowledgments of ſuch parties in the manner before deſcribed ‡; and in ſuch caſe the caption will be ſufficient, though the Conuzors do not ſign the acknowledgement §; but the moſt regular way is for them to ſign it as they do here; however,

* Orders Hil. T. 17 Geo. II. and Hil. T. 26 and 27 Geo. II.

‖ See Appendix, *g*.

† See p. 9. ‡ See p. 2.

§ Fleetwood, Eſq. *v*. Calenda and Wife, and others. Barnes's Notes, title Fines.

the

the Commiſſioners muſt ſign the caption and return of the writ (*as to* the acknowledgements taken by them *) and remit the ſame back again, with an *affidavit* † of the acknowledgments by ſuch parties, ſworn before ſome magiſtrate of ſuch place, who uſually adminiſters oaths; and a *certificate* of a notary public ‡, wrote either on the back of the precipe and concord, or on an annexed piece of parchment, without any eraſure or interlineation whatever, that the affidavit was ſworn before ſuch a magiſtrate; but if there be *no* notary-public at the place, then there muſt be an *affidavit* of that fact, and of the hand-writing of the magiſtrate; though it ſeems if the acknowledgments be taken before a *great judicial officer*, as the Chief Juſtice of the Common Pleas in Ireland, the notary's atteſtation will be diſpenſed with §. The Commiſſioners in England ſhould then proceed to take the acknowledgments of the Conuzors here, and ſign the caption ‖, and return the dedimus accordingly, with the common affidavit ¶ as to the acknowledgment of the fine by them,

* See Appendix, *b*. † Ibid. *i*. ‡ Ibid. *k*. and ſee Heathcock, Bart. *v*. Hanbury, Eſq. and Wife. Barnes's Notes, title Fines.

§ See ex parte Worſley, 2 Hen. Blac. C. P. T. R. 275.

‖ See Appendix, *m*. ¶ Ibid. *f* & *i*.

and then the Judge's allocatur muſt be obtained thereon in the uſual way *. So if all the Conuzors are out of England, their acknowledgments muſt be taken and certified in the above manner; and if the Conuzors, reſiding in foreign parts, live at great diſtances from each other, two or more dedimuſes may iſſue to take their reſpective acknowledgments; but then, on their being brought to the Judge's Chambers for his allocatur, they muſt be accompanied by an affidavit ſtating that fact, and that therefore there had been ſeveral writs of dedimus iſſued, but that it was only one concern.

Before the Chief Juſtice,

But if all the Conuzors are in England, and it is convenient for them to acknowledge the fine before the *Chief Juſtice* of the Court of Common Pleas, it will ſave the expence of a dedimus poteſtatem, and may be done thus:—You muſt draw the precipe and concord, and make one fair copy on parchment, and another on paper, both which the Conuzors muſt ſign; and having wrote the caption under each of them, the Conuzors muſt be taken to the Chief Juſtice's houſe, and both the precipes and concords given to either his gentleman,

* See p. 3.

clerk,

clerk, or ſervant, whichever happens to be there, who will deliver them to the Chief Juſtice, when he will then take the acknowledgments: and if either of the Conuzors be a married woman, he will examine her apart from her huſband, and ſign the caption on parchment (keeping the paper one) which will be delivered to you; and then the writ of covenant muſt be got from the Curſitor, and paſſed through the offices, as hereafter ſhewn *.

or other Judge, or a Baron, or Serjeant.

So a *Judge of Aſſize*, or either of the *Judges* of the courts at *Weſtminſter*, or the *Barons* of the *Exchequer*, or a *Serjeant at Law*, may take the conuzance of fines in like manner, though they do not return the concord, &c. or certify the acknowledgment of the fine, until they receive a dedimus poteſtatem; which you muſt afterwards procure from the Curſitor, and take to the clerk of the Judge or Serjeant who took the acknowledgment, whereupon he will return the dedimus accordingly; but if the Judge, Baron, or Serjeant who took the conuzance happens to *die* before he returns the dedimus, the Curſitor makes you out a writ of *Certiorari*, directed to the deceaſed's executors or ad-

* See p. 9.

miniſtrators, requiring them to return the dedimus, which they accordingly do, and then the writ of covenant muſt be obtained from the Curſitor, as before directed, and paſſed through the offices, as after mentioned *.

In Court. Or, if it is more convenient to the parties, the fine may be acknowledged at bar, or, in other words, *in Court*; in order to do which you muſt make a precipe for the writ of covenant †, and leave a copy of it, and the retainer ‡ or warrant, with the Curſitor of the county where the lands lie, who will thereupon prepare the writ, get it ſealed, and deliver it to you. Then a copy of the precipe and concord ſhould be made on parchment, without any interlineation or eraſure whatever, which the Conuzors muſt ſign; and when that is done, the writ of covenant, precipe, and concord, ſhould be taken, with the Conuzors, down to Weſtminſter, while the Court is ſitting, and then give the writ, precipe, and concord, to one of the Serjeant's clerks, and he will give them to the Serjeant, who will take the acknowledgments, give back the precipe and

* See p. 9. † See Appendix, *p.*

‡ 25 Geo. III. c. 80.

concord,

concord, and deliver the writ to the Secondary, calling out at the ſame time, "King's ſilver;" and then if any of the Conuzors are married women, which they commonly are, the clerk will take the precipe and concord to the Puiſne Judge's clerk, who will introduce the married women to the Judge ſitting on the bench; and he will there examine them apart from their huſbands, to ſee that they know it is a fine to paſs their eſtates, and that they do it freely, and then deliver the precipe and concord to the Secondary, from whom the Serjeant's clerk will get it for you, with the writ of covenant; ſo he will alſo when there are no married women, as the Secondary enters them all in his book; after which the writ of covenant muſt be paſſed through the offices in the following manner:

Of paſſing the Fine through the Offices.

The fine having thus been acknowledged in one of the above ways, and if the acknowledgment was taken by Commiſſioners, the Judge's allocatur got thereon, the next thing to be done is to paſs it through the offices.

Alienation Office.

In order to do which the writ of covenant muſt firſt be taken to the Alienation Office, to be what is termed compounded; which

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is to have the fines due to the Crown ſet by the Commiſſioners there; for upon every writ of covenant there are two fines paid to the Crown; one called the *Prefine*, being an ancient revenue of 6s. 8d. on every five marks of the yearly value of the lands and tenements, and due to the crown on the original writ in every real action; and the other, called the *Poſtfine*, or King's Silver; which is alſo an ancient revenue of the crown for the King's licence to accord. This uſed to be collected by the Sheriff, but now it is paid at the ſame time as the prefine, with 4d. to the receiver *, and the amount of it is always as much as the prefine, and half as much more; ſo that if the prefine is 1l. the poſtfine is 1l. 10s.; but if the lands or tenements be under the yearly value of five marks, and ſo no prefine payable, the poſtfine then is 6s. 8d. †: and if the writ be taken to the office while the Cmmiſſioners are ſitting, they will ſet the fines immediately, and mark them on the writ of convenant ‡, and which ſhould then be paid to the receiver, with the office-fees. But if, after payment of the poſtfine, the writ of covenant, by the death of any of the parties, or otherwiſe, is prevented from paſſing through the

(prefine.)

(poſtfine.)

(poſt-fine to be returned if the fine is prevented being completed by the death of the parties, or otherwiſe.)

* 32 Geo. II. c. 14. ſ. 1. † Ibid. ſ. 3.
‡ Ibid. ſ. 5. and ſee Appendix, r.

offices

offices and being completed, the receiver repays the Conuzee, his attorney or agent, on producing and filing the writ of covenant with him, the money received for the poſt-fine. * And if the *rack-rent*, which is the full value of the premiſſes, or near it †, or the *purchaſe-money* is *ſmall*, eſpecially if the premiſſes are houſes in London or Middleſex, or there are a *conſiderable number* of parcels in the writ, or any part of the premiſſes are *unproductive*, it may be prudent to prove the amount of the rent or purchaſe-money, &c. to the Commiſſioners, in order that they may not ſet the prefine higher than it ſhould be: and it may here be obſerved, that the Commiſſioners have *three* modes of ſetting the fine; namely, by the rent, by the purchaſe-money, and by the quantity or number of acres, &c. By the *rent*, they take 2l. per cent. on the *groſs* rent, which is, where the *tenant* is *allowed* the *land-tax*; and 10l. per cent. on the *clear* rent, that is, where the tenant *pays* the land-tax; by the *purchaſe-money*, they take from 40l. to 100l.; 6s. 8d. from 100l. to 150l. 10s., and ſo on, at the rate of 3s. 4d. for every 50l.; and by the *quantity* or *number of acres*, &c., they take at the rate of 1l. for every *meſſuage* in *London* and *Weſtminſter*, except in the *outſkirts*, and there 10s.; in *cities* and the borough of *Southwark* 10s.;

(*Rack-Rent, purchaſe-money, &c.*)

(*The Commiſſioners rules for ſetting the prefine.*)

* 32 Geo. II. c. 14. ſ. 5. † Blac. Com. c. 3.

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in *villages* near *London*, and *market-towns*, 6s. 8d.; and *ſtables* and *coach-houſes* in *London* and *Weſtminſter*, each 6s. 8d.; but one-fourth is *allowed* on all thoſe things. In *villages* in the country, and where there is very little land, and the chief value of the eſtate conſiſts in meſſuages and cottages, the *meſſuages* are charged each at 3s. 4d.; the *cottages* at about *one-half* as much, with the allowance of the *one fourth*, as above; but where there are manors or good ſtore of land, the meſſuages or cottages are not charged at all, nor are *barns*, *ſtables*, *mills*, *pidgeon-houſes*, *gardens*, *orchards*, *moor*, *furze*, and *heath*, *unleſs* the moor, furze, and heath are the greateſt part of the eſtate, and then at about *one-third* of ſo much land. For *land*, meadows, and paſture, *under* ſixty acres, they take 6s. 8d.; and *above* that quantity, at the rate of 5s. for every 50 acres; but ſee the Commiſſioners Table of the Rates *. *Marſh*, ſalt and freſh, near the *Thames*, is valued as *other land*, and in other *counties* at *one-half*; and *caſtles*, *honors*, *abbeys*, *boroughs*, *parks*, *hundreds*, and *manors*, are charged at 1l. each, ſo is a *rectory* and *advowſon* together; and when ſeparate, 1l. each; but if of the ſame, then the rectory 1l. and the advowſon but 10s.; an *advowſon without tythes*, and an *advowſon* of a *vicarage*, 10s.; *wood*

* See Appendix, 4.

in

in *Kent*, *Eſſex*, *Suſſex*, and *near* the *Thames*, is rated like other *lands*; *tythes*, of ſo much land, at a *tenth* of the quantity of the land; *fen-land*, and *land* covered with *water*, is not charged, *unleſs* the fen-land is valuable; and then it is charged as other land. *Ground-rents* pay 2s. in the pound, and ſo do *vent-charges* without mitigation; *annuities* for a *perpetuity*, pay 10l. per cent. and for a *leſs* term, according to the *intereſt* intended to paſs; a ſhare of a *bridge* pays 2s. in the pound; *one-thirty-ſixth* part of a moiety of the *New River* in each county pays 3l.; a *reverſion* or fine *ſur conceſſit*, is charged *one-half*, *one-third*, or *one-fourth* of the fee ſimple fine, according to the *value* of the eſtate in *poſſeſſion*. When the caption ſhews a fine, ſur conceſſit, to be for a *ſingle life* only, then the prefine charged is *one-third* of what the whole fine upon the inheritance would be; and if a *reverſion in fee* after a life in poſſeſſion, then *two-thirds* of what the whole fine would be; and when an intereſt paſſes for a *term of years*, be it ſhort or long, as 30, 60, 90, the prefine bears the ſame proportion to the whole fine as the value of ſuch term is to the value of the inheritance; as *three-fourths*, *ſeven-eighths*. So if it appears in evidence to the Commiſſioners, that the fine levied is only to bar the

dower

dower of one of the parties, then the prefine in like manner bears the ſame proportion to the whole fine as the value of ſuch dower is to the value of the inheritance; and ſo alſo, if it be levied to bar any other *particular intereſt*, if that appears to the Commiſſioners, they will ſet the fines accordingly; and where the parcels are *thouſands* and *hundreds*, *one-tenth* part is uſually deducted for want of accuracy and the uſual exceſſes, and *two-tenths* if the premiſſes lye in the *northern* counties behind the Trent, or on the borders of Wales: and where it is proved to the Commiſſioners that a *former* fine or recovery has been paſſed of the ſame premiſſes *within a year*, an allowance of a *fourth* is made on the latter. So if it be proved to the Commiſſioners that the fine was levied only for the purpoſe of rectifying a miſtake in a former fine of the ſame premiſſes, the Commiſſioners *lower* the fines on that account; and if an eſtate is *under* 40s. a year, or the purchaſe-money (the charge of the fine included) is *under* 40l. it pays *no* fine. Indeed, it is ſaid, *no* prefine is payable on any writ of covenant where the lands and tenements contained in the writ are *under* the annual value of 5 marks, or 3l. 6s. 8d. However, if it is worth while to be at the trouble or expence of proving the amount of the rack-

rent

rent or purchaſe-money, or any other of the above circumſtances, in order to reduce the preſine, &c. which the Commiſſioners or their Clerk will inform you on your mentioning it, when you leave the writ at the office, one of the parties ſhould be taken before the Commiſſioners to ſwear to the rack-rent or purchaſe-money, &c.; but if it is not convenient for either of them to attend the Commiſſioners, then an affidavit of the ſame muſt be made by one of the parties, or ſome other perſon *, and lodged at the office; when the Commiſſioners will thereupon ſet the fines accordingly. And although until the fine is ſtamped and marked with the ſum the poſtfine amounts to in the King's Silver Office, it is not deemed a fine effectual in law †, yet if the Conuzor be living at the return of the writ of covenant, notwithſtanding he dies before the poſtfine is paid, if it be paid previous to any application againſt the fine ‡, the fine ſtands good, and may be completed; in as much as the concord, or agreement, is ſuppoſed to be made at the return of the writ of covenant §, at

(The effect of the death of any of the Conuzors before the fine is complete.)

* See Appendix, *t*. † 32 Geo. II. c. 14, ſ. 2

‡ And ſee Barber *v.* Nunn and Wife, and others, Barnes's Notes, title Fines.

§ Watts *v.* Birkett and Wife, ibid.

which

which time the *King's Silver*, commonly called the *poſtfine*, becomes due to the Crown *; and when the poſtfine is paid, the Comiſſioners at the Alienation Office and the clerk at the King's Silver, both enter it on the back of the writ of covenant †; and ſo it appears to have been paid before the Conuzor's death. Indeed, if the fine is acknowledged before Commiſſioners in the vacation, and the Conuzor dies before the term, though the writ of covenant be not ſued out, yet the Court will permit the Conuzee to enter the fine as of the preceding term ‡; and when once the fine is recorded, it muſt be taken to be a fine of that term, and no averment of its having been acknowledged after, will be received‖; but if the writ of covenant be returnable *after* the Conuzor's death, the fine will be void §; and may be ſet aſide, even on a motion after a rule to ſhew cauſe, on an affidavit of facts.

Return Office. Having got the writ of covenant compounded, and paid the fines and office-fees

* Watts *v.* Birkett and Wife. 2 Wilſ. 215. *ſ. c.* Barnes's Notes, title Fines; and Barber *v.* Nunn and Wife, and others *Ibid.*

† See Appendix, *r.*

‡ See Odes *v.* Woodward, 2 L. Raym. 849.

‖ Lloyd *v.* Viſc. Say and Sele, 1 Brownl. 379. Argenton *v.* Weſtover, Cro. Eliz. 275. Clements *v.* Langhorne, 2 L. Raym. 872.

§ Watts *v.* Birkett and Wife.

there,

there, and taken the writ away, it muſt be taken to the *Return-Office*, where the clerk will indorſe on the writ the *Sheriff's return* to it, containing the nominal pledges of proſecution, and ſummoners of the deforceants or conuzors*; and he alſo ſtamps the writ with the ſeal of his office.

Warrant of Attorney Office.

This being done, the plaintiff's *warrant of attorney*† ſhould then be drawn, and copied on parchment; which, with the writ of covenant, muſt be taken to the *Warrant of Attorney Office*, and delivered to the clerk, who thereupon *files the warrant*, and gives you back the writ, after ſtamping it with the ſeal of his office; and no officer of the Court is to receive or file the writ of covenant, or make any entry of the fine, until it is ſo ſigned by the Clerk of the Warrants‡.

Cuſtos Brevium Office.

Then the writ of covenant ſhould be left at the *Cuſtos Brevium Office*; and when you go for it again, you muſt take the precipe and concord, where you will be required to examine the names and parcels with the clerk; who will indorſe on the back of

* See Appendix, *r*.

† Ibid. *u*.

‡ Orders Hil. T. 14. Jac. I.

the concord the term the fine is proclaimed, which is the term the writ of covenant is returnable*: he then ſtamps the back of the writ of covenant and concord with the ſeal of his office, and returns the whole to you again.

King's Silver Office.

The writ of covenant, concord, &c. muſt then be taken to the *King's Silver Office*, pinned together, to have the King's Silver (which is now paid at the Alienation Office †) *entered*; where the clerk will enter the fine in the books kept there, and the poſtfine on the back of the writ of covenant, with the term and number of the roll ‡; as he continues to enter the fine on record, and makes the ſame entries, and puts the ſame indorſements and ſtamps on it as he uſed before the poſtfine was directed to be paid at the Alienation Office §; and then the clerk, after examining his entry of the precipe and caption with you, ſtamps the writ of covenant, dedimus, and concord, with the ſeal of his office, and you take them away. But if the fine is *not* brought to this office to be paſſed,

(If the fine is not paſſed here within a year after the caption, there muſt be an affidavit of the Conuzor's being living.)

* See Appendix, *v*. † See p. 9.

‡ See Appendix, *r*.

§ 32 Geo. II. c. 14. ſ. 1 and 2.

within

within *twelve* calendar months after the caption, there muſt be an *affidavit* made of the Conuzors being *all* living at the time of making the application to paſs it; upon the reading of which, the *Court* will make a *rule*, or the *Judge* an *order* *, for the fine to paſs through the offices notwithſtanding the delay †. And if any or either of the Conuzors ſhould *not* then be *living*, an affidavit muſt be made, ſtating the time or times of the *death* of ſuch Conuzor or Conuzors; upon reading of which, the *Court*, in *term*-time, will make a *rule*; or a *Judge*, in *vacation*, an *order* ‡, for it to paſs the offices as to the ſurvivor or ſurvivors; upon the production of which to the clerk at the King's Silver Office, he paſſes the fine and files the order §: but if eighteen months are expired ſince the acknowledgment was taken, ſome reaſon muſt be aſſigned in the affidavit for the delay.

(But if any of the Conuzors are dead, it may be paſſed as to the ſurvivors, on an affidavit of the fact.)

The fine having thus paſſed the King's Silver Office, the whole muſt then be taken to the *Chirographer's Office*, and given to

Chirographer's Office.

* See Appendix, xv. † Order Eaſter T. 36 Geo. III.
‡ See Appendix, xv. § Order Eaſter T. 36 Geo. III.

the clerk of the county where the parcels lie, who will thereupon *engroſs* two parts of the *indentures* of the fine on one piece of parchment *; and afterwards ſeparate them at top, by cutting them acroſs in an indented form, and then, after examining them with you, will deliver you both parts; one for the Conuzee, and the other for the Conuzor †, though now both parts of the fine are kept by the perſon to whoſe uſe the fine is levied. But if the fine is not taken to the chirographer in the courſe of the vacation of the term, the writ of covenant is returnable; then it is recorded in the term it is brought to the office, and he engroſſes the indenture accordingly ‡. Thus the fine is complete, ſo far as the attorney is concerned, for the chirographer finiſhes what then remains to be done; namely, he *proclaims* ſuch fines as are levied with proclamations, and makes another indented piece, called the *foot* of the fine, and on which he indorſes the proclamations when they are all made §. And he writes out every term a table on ſeveral parchment rolls of the fines levied in each county, city, and town, that

* See Appendix, *x*.

† Terms of the Law, title Chirographer.

‡ See Appendix, *y*. § Ibid. *z*.

term;

term *; and his regiſter towards the latter end of every term, attends the court, and reads them over, and hangs the table up on one ſide of the court, where it remains all the next term †. He alſo is to deliver to the ſheriff of each county, &c. a ſimilar table of the fines of the lands, &c. in ſuch county, &c. which the ſheriff is directed to fix up in open court, at the next aſſizes, for the more public notoriety of the fine ‖; but this is not now done. And after the fines are ingroſſed, the ſeveral parts of them are divided between the Chirographer and the Cuſtos Brevium: thus the Chirographer keeps the writ of covenant and the note of the fine, which is nothing more than an abſtract of the writ of covenant and concord; and the Cuſtos Brevium keeps the concord and foot of the fine ‡.

The fine being thus complete, we ſhall only now obſerve, that by paying *expedition* §, the writ of covenant may be had away from the *Alienation Office* in the afternoon of the

Of expedition in paſſing the fines through the offices.

* 23 Eliz. c. 3. ſ. 6.

† See Appendix, *a a*.

‖ 23 Eliz. c. 3. ſ. 6.

‡ Terms of the Law, titles Cuſtos Brevium and Chirographer.

§ Sixpence at each Office.

day the fines on it are compounded by the Commiſſioners; but otherwiſe, it is kept there two clear days after the fines and office-fees are paid, viz. if paid on the *Monday*, it cannot be had away till the *Thurſday* following; and if the laſt day happens to be a *Sunday* or *holiday*, then not till the *ſucceeding* day: ſo at the Return, Cuſtos Brevium and King's Silver Offices, by paying the expedition, the writ, &c. may be had away *immediately*, otherwiſe they alſo keep the fine at the *King's Silver* and *Cuſtos Brevium*'s Offices *two* clear days, and at the *Return Office one*; but by paying the expedition, it may be paſſed from the Alienation Office to the King's Silver Office in a day: therefore, as in the next term, *poſt terminums* * are payable at the above offices. If the fine is to be paſſed towards the *end* of a *vacation*, the expedition at one office may ſave poſt terminums at another; ſo by paying the expe-

* At the Alienation Office 6d. per term; Return, nothing; Warrant of Attorney 4d.; Cuſtos Brevium, 1s. 8d.; King's Silver, 3s. 10d.; (excluſive of 1s. for a poſt-roll of the preceding term; and 4s. for any former one); Chirographer's 1s. 8d.

dition

dition at the Chirographer's Office*, the indentures may be had in a few days; but without, it will always be a fortnight, and ſometimes three weeks or more, before they will be done.

* According to the length of the concord, and the time you want the indentures.

OF SUFFERING RECOVERIES.

Of the different ways of ſuffering recoveries.

RECOVERIES may be ſuffered various ways; for though neither the demandant nor common vouchee ever actually appear, yet the *tenant* and the other *vouchees* muſt, either *in perſon*, or *by attorney*, and then the warrants of attorney to enable them to appear ſo, may be taken by either of the *Judges* of the Common Pleas, King's Bench, or *Barons* of the Exchequer, or by a *Serjeant at Law*, or a *Judge of Aſſize* on the circuit, or by *Commiſſioners* by virtue of a writ of *dedimus poteſtatem*; and in each of theſe caſes the manner of ſuffering the recovery varies; and that whether it be with ſingle, double, or farther voucher: as firſt, where the *tenant* and *vouchee* or *vouchees* appear *in perſon*; ſecondly, where they appear *by attorney*, on a warrant taken before *Commiſſioners* by *dedimus poteſtatem*; thirdly, where the warrant is taken before a *Judge*, *Baron*, or *Serjeant*; fourthly, where the *tenant* appears *by attorney* on a warrant, acknowledged before a *Judge*, *Baron*, or *Serjeant*, and the *vouchee* on a warrant

a warrant taken by *Commiſſioners* by *dedimus poteſtatem*; fifthly, where the *tenant* appears *in perſon*, and the *vouchee by attorney*, on a warrant acknowledged before *Commiſſioners* by *dedimus poteſtatem*. But a recovery with double voucher, where the parties ſo appear, is of the whole by far the moſt uſual; as it is now cuſtomary, for the reaſons noticed in the Introduction, for the tenant in tail to make his ſolicitor or his ſolicitor's agent in London tenant to the precipe by a previous conveyance for that purpoſe, in order that he may appear in perſon at bar; and then the tenant in tail, who is vouchee in the recovery commonly, eſpecially if he reſides in the country, acknowledges his warrant of attorney before Commiſſioners by dedimus poteſtatem; and if the agent is tenant, the ſolicitor is ſometimes the demandant; but if the ſolicitor is tenant, then ſome other indifferent perſon is generally made demandant, where the recovery is ſuffered purely or chiefly for the purpoſe of cutting off the intail *; and in marriage-ſettlements one of the truſtees is uſually the tenant, and ano-

* And ſee 5 Wood's Conveyancing by Powell, title Leaſes and Releaſes. 6 Ibid. title Settlements, and 3 Williams's Precedents in Conveyancing, title Releaſes.

ther

ther the demandant *; but if it is ſuffered on a ſale of the premiſſes by the tenant in tail, then the purchaſer is frequently the demandant †. Therefore the compiler intends firſt to ſhew how ſuch tenant to the precipe is made, and the recovery ſuffered ſo; and then how they are ſuffered in the various other ways above noticed.

Of making the tenant to the precipe.

The *tenant* to the *precipe* may be made either by feoffment, bargain and ſale, or leaſe and releaſe ||, and fine where neceſſary ‡; and where a fine is uſed in making the tenant to the precipe, the writ of covenant ſhould regularly be teſted, and be returnable before the writ of entry §; but though the fine or deeds making the tenant to the precipe are levied or executed *ſubſequent* to the judgment of recovery, yet if it be in the *ſame*

* And ſee 2 Blac. Com. Appendix, No. 2. Horſeman's Precedents in Conveyancing, title Marriage-Settlements. 6 Wood's Conveyancing, by Powell, title Settlements.

† And ſee 4 Williams's Precedents in Conveyancing, title Releaſes.

|| See Pigot of Com. Rec. c. 2.

‡ See 2 Blac. Com, 364. 7th ed.

§ 6 Wood's Conveyancing by Powell, title Recoveries.

term

term it is ſufficient *; but it ſeems the deeds ſhould be actually *executed within* the term, for antedating them will not do ‖; and after *twenty years* poſſeſſion of a *purchaſer* for a valuable conſideration, the *deed* making the tenant to the writ of entry, and declaring the uſes of the recovery, is evidence that the recovery was *duly ſuffered*, if no record of the recovery can be found, or it ſhould appear not to be regularly entered on record §: ſo after *twenty* years the recovery is *valid*, if it appears on the *face* of it that there was a *tenant* to the writ, if the perſon joining in ſuch recovery had a ſufficient eſtate and power to ſuffer it, although the *deed* making the tenant to the precipe be *loſt* †.

Of ſuffering a recovery, with double voucher, where the tenant appears at bar, and the vouchee by attorney, on a warrant, acknowledged before Commiſſioners by dedimus poteſtatem.

The tenant to the precipe being thus made, and the recovery intended to be ſuffered with double voucher, the tenant to appear at bar, and the vouchee by attorney, on a warrant to be acknowleged before Commiſſioners by dedimus poteſtatem, the firſt ſtep is now to take the vouchee's warrant of attorney.

* 14 Geo. II. c. 20. ſ. 5. and 9. See Goodright on the demiſe of Burton v. Rigby and others, 2 Hen. Blac. C. P. T. R. 46. and S. C. in Error, 5. K. B. T. R. 177.

‖ See Pigot of Com. Rec. c. 2.

§ 14 Geo. II. c. 20. ſ. 4. † Ibid. ſ. 5.

It

Dedimus to take the vouchees warrant of attorney, with the manner of taking the ſame, and returning the writ thereon.

In order to do this, a precipe for the dedimus ſhould be made *, and a copy and the retainer † left with the Curſitor of the county where the parcels lie, who will thereupon prepare the writ ‡, get it ſigned by the Lord Chancellor, and paſſed under the Great Seal, and deliver it to you, folded and ſealed up. When you have got the writ, break off the wax, open it, and make a copy of the *precipe*, placing the parcels therein as they ſtand in the writ, and draw the *warrant of attorney* and *caption* under it §; let a fair copy of the whole be made on *parchment*, and then the vouchees being out of priſon ||, either two of the Commiſſioners may proceed to take the acknowledgments thus: the Commiſſioners being ſatisfied that the vouchees are of full age, and competent underſtanding, ſhould read the precipe and warrant of attorney over to, and inform the vouchees of the nature and conſequence of it, when the vouchees are to *write* their *names*, or *ſign* their *marks*, under the warrant of attorney ¶, and *acknowledge* it**. And if either of them

* See Appendix, *a* & *i i*.

† 25 Geo. III. c. 80.

‡ See Appendix, *k k*. § Ibid. *m m*.

|| 18 Edw. I. ſ. 4. ¶ See Appendix, *m m*.

** Suffering a recovery in the name of another, is felony without benefit of clergy, 21 James I. c. 26.

is

is a *married woman*, the Commiſſioners muſt alſo take her *apart* from her huſband, and ſee that ſhe *freely* acknowledges it, and then the *Commiſſioners* ſhould *ſign* the caption *, and *indorſe* their *return* on the back of the dedimus †; and one of them, or ſome other perſon who ſaw the vouchees acknowledge the warrant of attorney ‡, muſt make an affidavit thereof §: and if the attornies named in the warrant happen to be dead, a Judge at chambers will make an order for the inſertion of the names of two living ones ||.

Writ of entry, Judge's allocatur, and Attorney General's hand.

The dedimus ſhould then be taken to the Curſitor, and he will thereon make out and deliver you the writ of *entry* ¶; which when you have got, break off the wax to open the writ, and write the attorney's name on the ſtamp in the margin; and then ** the whole ſhould be pinned together, and left at the chambers of either of the Judges of the court, for his *allocatur* thereon, as there muſt in this caſe, as well as in fines, be an allowance of the caption by one of the

* See Appendix, *m m.* † Ibid. *l l.*
‡ Ibid. *n n.*
§ Order, H. T. 14 Geo. III.
|| See Appendix, *o o.* ¶ Ibid. *p p.*
** Order Tri. T. 30 Geo. III.

Judges

Judges of the court before the recovery can paſs through the offices; and the clerk will write ſuch allocatur under the caption, and get it ſigned by the Judge, the ſame as in fines, who alſo thereupon marks the writ of entry with his initials *. The writ of entry may then be taken to the *Attorney General's* chambers for his *hand*, as it muſt be ſigned by him before the Prothonotary ſigns the exemplification †; when the clerk will get him to indorſe his initials on the back of the writ accordingly ‡.

The manner of taking the warrants of attorney where the vouchees are out of England.

But if either of the vouchees is *out of* England, two of the Commiſſioners muſt be perſons living where ſuch vouchee is, to whom the writ muſt be ſent, with the precipe and warrant of attorney, for them to take the acknowledgment of ſuch vouchee in the above manner; and they muſt ſign the caption and return of the writ as to the acknowledgments taken by them, and remit the ſame back again, with the affidavit of the acknowledgments by ſuch parties ſworn, where the acknowledgments were taken in

* Order Tri. T. 30 Geo. III. and ſee Appendix, *q q*.

† Orders Mich. Term, 30 and 34. Cha. II.

‡ See Appendix, *r r*.

Scotland,

Scotland, by one of the clerks of the ſignet before a judge, or other perſon duly authorized to take affidavits or depoſitions in the Court of Seſſion or Court of Exchequer there: and if the parties are in *Ireland*, or any *other* parts beyond the ſeas, the affidavit muſt be made by one of the Commiſſioners who took the acknowledgments, and ſworn either before a *Commiſſioner* to take affidavits in the court of Common Pleas here, or before ſome *magiſtrate* of the place where the acknowledgments are taken, having authority to adminiſter an oath, and in the preſence of a *Public Notary*; which notary muſt alſo *certify* in writing, under his hand and ſeal, as well the due adminiſtering of the oath, as alſo the name, ſignature, and office of the magiſtrate adminiſtering the ſame *; and then the commiſſioners in England muſt take the acknowledgments of the vouchees here, and ſign the caption and return of the dedimus accordingly, with the common affidavit as to the acknowledgments of the warrants of attorney by them; and the Judge's allocatur muſt be obtained thereon in the uſual way: ſo if the tenant, or all the vouchees are out of England,

* Order Hil. T. 14 Geo. III.

their

their acknowledgments muſt be taken and certified in the above manner.

Recording the tenant's appearance at bar.

The acknowledgments of the vouchees having been thus taken, the writ of entry ſued out, and the Judge's allocatur obtained thereon, the next thing to be done is to get the tenant's *appearance* at the bar *recorded*; in order to do which, you muſt make a fair copy of the precipe, with the names of the tenant, vouchees, &c. in the margin *; and then the tenant ſhould go to Weſtminſter while the court are ſitting, and the writ of entry †, and the other proceedings muſt be given to one of the Serjeant's clerks, who will firſt, if you have not already got it at chambers, get the Judge's allocatur thereon; and the clerk will then give them to his Serjeant, who, after ſeeing the tenant, and looking at the proceedings, ſigns his name twice under the precipe ‡; after which the Serjeant's clerk gets the ſecondary to mark the recording of the tenant's appearance at the bar, on which he writes the words "At bar;" and alſo, the words "The tenant's appearance is recorded by the court" under the precipe §,

* See Appendix, *t t.*

† Order Tri. T. 30 Geo. III.

‡ See Appendix, *t t.* § Ibid. *t t.*

and

and returns you the whole again, and then you pay him the fees.

Compounding the fine on the writ of entry.

The writ of *entry* may then be taken to the Alienation Office to be *compounded*, which is done in the ſame manner as on fines *, though, there being no agreement on this writ, but a ſuppoſed recovery, no King's Silver or poſt fine is due, and therefore there is only one fine payable on this writ, namely, the fine on the original writ in the Hanaper, as fines for alienations are payable to the crown on writs of entry, for ſuffering common recoveries in like manner as upon alienations by fines †; and becauſe there is no poſt fine payable on this writ, the commiſſioners charge writs of entry a little higher than they do writs of covenant.

Mittimus and tranſcript of the dedimus and return.

Then the dedimus, with the warrant of attorney, if not done before, may be left with the curſitor, which he keeps to file, and makes you out the *mittimus* and *tranſcript* ‡ of the dedimus, and return thereon,

* See p. 9.

† 32 Henry VIII. c. 1. ſ. 15.

‡ See Appendix, *u u*.

and which (when you go to the return office, as hereafter directed) are taken to the return office with the affidavit of the caption, where the clerk marks one of the writs with the ſeal of the office, and returns you the mittimus and tranſcript, but keeps the affidavit.

Writs of ſummons, ſeiſin, and returns.

You may then draw the writs of *ſummons* * and *ſeiſin* † and *returns*, and take the drafts to the clerk of the recoveries, at the Prothonotary's Office, who will ſettle them for you, and put in the proper returns; or you may leave them with him (which perhaps is the better way) with the draft of the recovery. However, when you have got the drafts from him, write the writs in a running hand, and indorſe the returns of the writ of ſeiſin a ſhort diſtance from the top, on the back of the writ. Both the writs ſhould then be *ſigned* at the Prothonotary's Office, and *ſealed* at the ſeal office; then pin the writs of *entry* and *ſeiſin* together, and take them to the return office at the Prothonotary's to have them *returned*, when the clerk indorſes the returns thereon.

* See Appendix, *x x*. † Ibid. *y y*.

Then

Then draw the entry on the *ſummons roll*, which conſiſts of the count againſt the tenant, with the award of the ſummons againſt the vouchees, and their warrants of attorney thereon *; and alſo prepare the draft of the entry on the *recovery roll*, which conſiſts firſt of the copy of the mittimus and tranſcript, and then follows the recovery †; and likewiſe draw the *exemplification* of the recovery ‡, and leave the drafts of them (and alſo of the writs of ſummons and ſeiſin and return, if not already done) with the clerk of the recoveries, who will ſettle the drafts for you §, and give you the proper rolls to make the entries on, which muſt then be done, and the recovery exemplified.

Entering and exemplifying the recovery;

When the entry on the rolls and the exemplification are finiſhed, take them, with the writ of entry and mittimus and tranſcript to the clerk of the recoveries, and

paſſing it with the prothonotary's clerk, and ſealing the exemplification.

* See Appendix, z z.

† Ibid. *a a a.*

‡ Ibid. *b b b.*

§ For which purpoſe he keeps them one whole day, *e. g.* if the drafts are left with him on Monday, he ſettles them on Tueſday; and on Wedneſday they may be had away ſettled.

he will give you the *remembrance-roll*, on which you muſt then enter, as he will ſhew you, the precipe, return, and teſte of the writ of entry, with the names of the ſummoners, pledges, and ſheriff*, and docket it on the *docket-roll*†; and then he will examine the whole with you, and ſign and return you the exemplification, and take the prothonotary's fees thereon. After it is thus ſigned ‡, you get it *ſealed* at the Seal Office, and the recovery and exemplification of it are then complete; but if the recovery be not of the preſent or preceding term, the exemplification muſt be examined and ſigned by the clerk of the treaſury before it is ſealed §.

Of the recovery with double voucher, where the tenant appears by attorney on a warrant acknowledged before a Judge, and the vouchee by attorney, on a warrantacknowledged before Commiſſioners by dedimus.

Where the recovery is to be ſuffered by the *tenant*'s appearing *by attorney*, on a warrant acknowledged before a *Judge*, and the *vouchee by attorney*, on a warrant acknowledged before *Commiſſioners* by dedimus poteſtatem, the firſt thing uſually done, is the taking of the warrants of attorney; therefore draw the *precipe* and *warrant of attorney* for the *tenant* under it, and make two fair

* See Appendix, *c c c.* † Ibid. *d d d.*
‡ Order Michaelmas Term, 1654.
§ Ibid.

copies,

copies, one on parchment, the other on paper, and let the tenant ſign them both *; then take him to the Judge, and give them to his clerk or ſervant, and the Judge will take the acknowledgment thereon, and keep the paper and return you the parchment with the caption of the acknowledgment, ſigned by him; then, or before, draw the *precipe* for the *dedimus* to take the *vouchee's warrant of attorney*, and get the dedimus and warrant of attorney taken, and proceed on with the recovery as before; the entry of which only differs from the former by ſtating the tenant's appearance by attorney.

Of the recovery with double voucher, where both the tenant and vouchee's warrants of attorney are acknowledged before a Judge.

But if the recovery is intended to be ſuffered by the *tenant* and *vouchee*'s both appearing *by attorney* on warrants taken before a *Judge*, draw the precipe and warrants of attorney under it †, and get them acknowledged as before, and then proceed on with the recovery, after the ſame manner, the entry of which conſiſts of the count againſt the tenant, and the award of the ſummons againſt the vouchee on the ſummons-roll, and the entry on the recovery-roll is the ſame as the former ones,

* See Appendix, *eee*.

† Ibid. *fff*.

omitting the entry of the mittimus and tranſcript, there being no dedimus here, and ſtating the tenant and vouchee's appearance by attorney.

Of the recovery with double voucher, where the tenant and vouchee appear by attorney on warrants acknowledged before Commiſſioners by a dedimus.

If the *tenant* and *vouchee* intend to appear by attorney, on warrants acknowledged before *Commiſſioners* by dedimus poteſtatem, a precipe muſt be made for the Curſitor to make out the writs of dedimus poteſtatem by; and the warrants of attorney ſhould be drawn, and put under a copy of the precipe and taken, and the Judge's allocatur obtained, and the recovery proceeded on with as before directed: the entries of which conſiſts of the entry of the mittimus and tranſcript * of the dedimus poteſtatem for taking the tenant's warrant of attorney, and of the count againſt the tenant, with the award of ſummons againſt the vouchee on the firſt or ſummons-roll; and on the ſecond, or recovery-roll, of the entry of the mittimus and tranſcript of the dedimus poteſtatem, for taking the vouchee's warrant of attorney, followed by the recovery, ſtating the tenant and vouchee's appearance by attorney †.

* See Appendix, *ggg*. † Ibid. *bbb*.

And

And if both the *tenant* and *vouchee* mean to ſuffer the recovery *at bar*, a precipe muſt be made for the curſitor to make out the writ of entry by, and taken to him with the retainer, as the writ of entry muſt now be produced at the time of the arrangement of the recovery *: and when you have got the writ from him, a precipe muſt be made to record their appearance at bar by; and which is then done in the way before deſcribed. The recovery having been thus paſſed at bar, muſt be proceeded on with as before directed, the entries of which commence with the count againſt the tenant; and then follows his defence thereto and voucher of warranty, appearance of the vouchee, and count againſt him, with his defence and voucher over of the common vouchee with the count againſt him, his defence, imparlance, default, and judgment thereon; with the award of the writ of ſeiſin, and the ſheriff's return thereto §.

Of the recovery with double voucher, where both the tenant and vouchee appear at bar.

But if either of the parties to appear *at bar* is of the degree of a *peer*, he ſtands in the middle of the bar between the King's Serjeants; when the Serjeants, one for each

Of paſſing the recovery at bar, if either of the parties be a peer.

* Order Trinity Term, 30th Geo. III.

§ See Appendix, *iii.*

of the parties, plead thereon, ſomething in the old way, by ſtating to the court the ſubſtance of the entries on the rolls to the imparlance; which counting, as it is called, commences with the Serjeant for the demandant reciting the heads of the count againſt the tenant, and the Serjeants for the tenant and vouchee recite the ſubſtance of their entries, and ſo ends with the Serjeant for the vouchee deſiring leave to imparle *.

* And ſee Wood's Conveyancing by Powell, title Recoveries.

APPENDIX.

FINES AND RECOVERIES.

(a.)

A SELECTION OF PARCELS,
With their particular and general Deſcriptions.

THE honor of A, with the appurtenances *, *and* the caſtle of B, with the appurtenances; and *alſo*, the manors of B. and C, with the appurtenances †; and *likewiſe* two

An honor, caſtle, manors, parks, meſſuages, cottages, tofts, barns, water-mills, wind-mills, dove-houſe, gardens, curtilages, orchards, land, meadow, paſture, wood, furze and heath, moor, marſh, ruſhland, broom, land covered with water, rent, common of paſture, common of turbury, common of eſtovers, free warren, paſture for oxen and ſheep, liberty of foldage, free fiſhery, fair, market, court leet, court

* The nature and quality of the things intended to paſs muſt be expreſſed, and the more worthy ones placed before the leſs worthy: as an honor before a caſtle, a caſtle before a manor, &c. and general things before ſpecial ones: as land before meadow, &c. but if they ſhould happen not to be regularly named in the precipe, the Curſitor, when he makes out the writ, will put them in it as they ought to be.

† The general things of which the manors conſiſt, as demeſnes, rents, ſeigniories, courts, pleas, &c. will paſs theſe words.—Billinghurſt's Arc. Cler. title Fines; as all that is part of the manor is comprehended in a pre-

baron, view of frankpledge, goods and chattels, waived eſtrays, deodands, goods and chattels of felons and fugitives, felons of themſelves, outlaws and perſons put in exigent, the return of writs, liberties, franchiſes, rectories, prebend and advowſons.

two parks with the appurtenances; and *moreover*, fifty meſſuages * thirty cottages, † twenty toſts, thirty barns, three water-mills ‡, two wind-mills, ten dove-houſes, twenty gardens, twenty curtilages, twenty orchards, three thouſand acres § of land ||, one thouſand acres of meadow, two thouſand acres of paſture, five hundred acres of wood ¶, one thouſand acres of furze and heath, one thouſand acres of moor, one hundred acres of marſh, five hundred acres of ruſh-land, five

a precipe of the manor. Pigott of Com. Rec. c. 2. and therefore, if a common recovery be ſuffered of a manor and 1,500 acres of land, and the manor comprehends 3,000 acres, yet all the land paſſes. Ibid. c. 4.

* A chapel or hoſpital will paſs by this name.—Billinghurſt's Arc. Cler. title Fines.

† A toft, chamber and cellar, will paſs by this name. Ibid.

‡ Mill is ſufficient, without adding water or wind, &c. but it is uſual to name them as here.

§ As no more will paſs than is agreed on, Popham's Rep. 105, it is now uſual to inſert a greater number of acres, &c. than is really intended to paſs; but this inconvenience follows from it; namely, that the greater the number of parcels are, the higher the King's fines will be, without an affidavit of the rent, &c. ſee page 11; and then the Commiſſioners at the Alienation Office never receive any evidence of leſs being intended to paſs than is mentioned in the writ.

|| Land means arable land—Maſſey v. Rice, Cowp. 346.

¶ Highwood and underwood paſs by this name.—Billinghurſt's Arc. Cler. title Fines.

hundred

hundred acres of broom, five hundred acres of land covered with water, ten pounds rent, common of paſture for all cattle, common of turbury, common of eſtovers*; paſture for one hundred oxen and five hundred ſheep, liberty of foldage, free warren, free fiſhery in the water of D; a fair, market, court leet, court baron, view of frankpledge, goods and chattels waived, eſtrays, deodands, goods and chattels of felons and fugitives, felons of themſelves, outlaws and perſons put in exigent, the return of all writs whatſoever, and all liberties and franchiſes, with the appurtenances in E, F, G, H, and J †; and *alſo* the rectories of E and F, and prebend of the church of G, with the appurtenances, and *likewiſe* the advowſon of the church of E; ‡ and *moreover* the advowſon of the vicarage of the church of F §.

* Houſe, hay, and plough-botes paſs by this name. —Billinghurſt's Arc. title Fines.

† The places where the things are; as the county, city, town, pariſh, village, or hamlet, ought to be certainly named. Ibid. The county or city, as Middleſex, London, &c. in the margin of the precipe, &c. and the town, pariſh, or hamlet, in the concord of the fine or body of the recovery; though it ſeems a fine may be levied of a cloſe by a known name, without mentioning the vill or hamlet in which it lies. Monk v. Butler, Cro. Jac. 574.

‡ This paſſes a preſentation and alſo a vicarage *not* endowed.—Billinghurſt's Arc. Cler. title Fines.

§ This paſſes a vicarage endowed.—Billinghurſt's Arc. Cler. title Fines.

The

General deſcription.

The ſaid honor, caſtle, manors, parks, tenements, rent, commons, paſture, liberty of foldage, free warren, free fiſhery, fair, market, court leet, court baron, view of frankpledge, goods and chattels of felons and fugitives, felons of themſelves, outlaws and perſons put in exigent, return of writs, liberties, franchiſes, rectories, and prebend aforeſaid, with the appurtenances, and the advowſons aforeſaid †.

Manors, meſſuages, lands, rent, and common of paſture.

THE manors of A, otherwiſe B and C, with the appurtenances, *and* four meſſuages,

† The parcels are not mentioned ſo fully in the concord of fines as in the precipe; any number of diſtinct things being ſufficiently expreſſed in the concord by the word Tenement: as meſſuages, cottages, barns, mills, dove-houſes, curtilages, orchards, land, meadow, paſture, wood, furze and heath, moor, marſh, ruſhwood, broom, land covered with water, &c. but honors, caſtles, manors, parks, rent, commons, paſtures, liberties of foldage, warrens, fiſheries, fairs, markets, courts leet, courts baron, views of frankpledge, goods and chattels waived, eſtrays, deodands, goods and chattels of felons and fugitives, felons of themſelves, outlaws, perſons put in exigent, return of writs, liberties, franchiſes, rectories, prebends and advowſons, &c. muſt be particularly named in the concord, Billinghurſt's Arc. Cler. title Fines. So in recoveries, the parcels are only particularly deſcribed the firſt time they occur, and afterwards generally as here.

three

three hundred and ſixty acres of land, twenty acres of meadow, eighty acres of paſture, two hundred acres of furze and heath, twenty ſhillings rent, and common of paſture, with the appurtenances in A, otherwiſe B and C, otherwiſe D *.

The manors, tenements, rent and common aforeſaid, with the appurtenances. General deſcription.

One-ſixth part of one-third part of the manor of A, with the appurtenances, *and* one-ſixth part of one-third part of ten meſſuages, eight gardens, twenty acres of land, five acres of meadow, five acres of paſture, and one hundred acres of downs with the appurtenances, *and* one-ſixth part of the manor of B, otherwiſe A B, with the appurtenances: and *alſo*, one-ſixth part of ſixty meſſuages, ſixty gardens, four hundred acres of land, thirty acres of meadow, thirty acres of paſture, and one hundred and fifty acres of downs: and *likewiſe*, one-ſixth part of forty-ſeven ſixtieth parts of ſix meſſuages, Several parts of manors, meſſuages, gardens, land, and common of paſture and turbury.

* Where the manors extend into ſeveral towns, it perhaps is the ſafeſt way not to mention the towns at all, for it ſeems ſufficient without. Cruiſe on Fines, 136: and if any one of the towns be omitted, no part of the manors in that town will paſs. Billinghurſt's Arc. Cler. title Fines.

twelve

twelve gardens, two hundred acres of land, twenty acres of meadow, twenty acres of paſture, and fifty acres of furze and heath, with the appurtenances: And *moreover*, one-ſixth part of two-third parts of twelve meſſuages, fifteen gardens, two hundred acres of land, fifty acres of meadow, fifty acres of paſture, twenty acres of moor, and one hundred acres of furze and heath: And *alſo*, common of paſture for all cattle, and common of turbury, with the appurtenances, in the pariſhes of C and D.

General deſcription.

The parts * and commons aforeſaid, with the appurtenances.

Meſſuages, gardens, land, meadow, paſture, the third part of a manor and an advowſon.

Four meſſuages, four gardens, one hundred acres of land, fifty acres of meadow, and fifty acres of paſture, with the appurtenances in A, otherwiſe B, otherwiſe C; *and* the third part † of the manor of A, otherwiſe B, otherwiſe C; and *alſo* common of paſture, with the appurtenances in A, otherwiſe B, otherwiſe C; and *likewiſe* the advowſon of the pariſh-church of A, otherwiſe B, otherwiſe D.

* The moiety, or other part of an entire thing, muſt be particularly named in the concord, &c.—Billinghurſt's Arc. Cler. title Fines.

† Entire things are put before parts. Ibid.

The

The tenements, part and common aforesaid, with the appurtenances; and also the advowson aforesaid. General description.

Six messuages, ten gardens, three acres of land, four acres of meadow, and twelve acres of pasture with the appurtenances, in the parishes of A, B, C, and D; *and* the rectory of A, with the appurtenances: and *also*, the advowson of the church of A; and *likewise*, all and all manner of tythes arising, growing, and renewing out of one hundred acres of land and fifteen acres of meadow, with the appurtenances, in the parish of E. Messuages, gardens, land, meadow, pasture, rectory, advowson, and tythes.

The said tenements and rectory with the appurtenances, and the advowson and tythes aforesaid. General description.

Seven messuages, fifty acres of land, fifty acres of meadow, fifty acres of pasture, and common of pasture for all cattle; *and* a moiety of one messuage, twenty acres of land, ten acres of meadow, ten acres of pasture: and *also*, common of pasture for all cattle, with the appurtenances in A, B, C, and in the parish of D. Messuages, land, meadow, pasture, common of pasture, and a moiety of a messuage, land, meadow, pasture, and common of pasture.

The tenements, moiety, and commons aforesaid, with the the appurtenances. General description.

Two

Meſſuages, cottages, land, meadow, paſture, and common of paſture.

Two meſſuages, two cottages, fifty acres of land, twenty acres of meadow, twenty acres of paſture, *and* common of paſture for all cattle, with the appurtenances in A, B, and C.

General deſcription.

The tenements and common aforeſaid, with the appurtenances.

A third part of meſſuages, gardens, land, meadows, paſture, and common of paſture.

One-third part of four meſſuages, two gardens, fifty acres of land, thirty acres of meadow, forty acres of paſture; and *alſo*, common of paſture for all cattle, with the appurtenances in A, B, and C.

General deſcription.

The third part and common aforeſaid, with the appurtenances.

Land, meadow, and paſture.

Twenty acres of land, twenty acres of meadow, and ten acres of paſture, with the appurtenances in A.

General deſcription.

The ſaid tenements, with the appurtenances.

Meſſuage and land.

One meſſuage and forty acres of land, with the appurtenances in A.

The

The tenements aforeſaid, with the appurtenances. General deſcription.

One meſſuage, one ſtable, and one garden, with the appurtenances in A. Meſſuage, ſtable, and garden.

The tenements aforeſaid, with the appurtenances. General deſcription.

One meſſuage and common of paſture for all cattle, with the appurtenances, in the town of N. Meſſuage and common of paſture.

The meſſuage and common aforeſaid, with the appurtenanes. General deſcription.

One meſſuage with the appurtenances *, in the pariſh of A. Meſſuage.

The meſſuage aforeſaid, † with the appurtenances. General deſcription.

* By theſe words an houſe with a ſhop, curtilage, garden, and orchard may paſs.—Billinghurſt's Cler. Arc. title Fines.

† Meſſuages named by themſelves in the precipe, will not paſs by the word tenement in the concord. Ibid.

Rectory. The rectory of A, with the appurtenances *.

General description. The rectory aforesaid, with the appurtenances.

(*b.*)

Precipe for the dedimus potestatem, to take the conuzor's acknowledgment of the fine.

Devon (1).—Command *A. B. and C. his Wife* (2), that justly, &c. *they* perform to *D. E. Gent.* (3) the covenant made between them of *four messuages*, [*&c.* (4)] and unless, &c.

Dedimus directed to *Sir F. G. Knight* (5). H. I. K. L. M. N. and O. P. Gent.

Hands, 15*th September*, 1796 (6).

To be sealed at the next *private* seal (7).

* By these words parsonages, rectories, advowsons, vicarages and tythes impropriate pass. Billinghurst's Cler. Arc. title Fines.

(1) The County. (2) The Conuzors.

(3) The Conuzee.

(4) The parcels which the Cursitor will set right in the writ, if they should happen to be not named so in the precipe.

(5) The Cursitor will insert the name of a Knight in the writ for you, or you may name one yourself as here, for one of the Commissioners must always be of the degree of a Knight at least; but either two of the Commissioners may take the acknowledgment, though it is usual to insert the names of four Commissioners besides the Knight, to prevent the inconvenience that might arise in taking the acknowledgment, if there were only two, by either being unable to attend to take the acknowledgment, on account of illness,

or

(c.)

Writ of dedimus poteſtatem.

* *George the Third*, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. To our truſty and well beloved *Sir F. G. Knight*, and to our beloved *H. I. K. L. M. N. and O. P.* Gentlemen, greeting. Whereas our writ of covenant is depending † before our Juſtices

or otherwiſe; and which Commiſſioners are uſually attornies. Indeed, now the dedimus cannot be directed to any perſon except the Judges, Serjeants at Law, Barriſters of five years ſtanding, Solicitors, or Attornies of ſome of the courts in Weſtminſter Hall in England, and the Judges of the Court of Seſſion and Exchequer, advocates and clerks to the ſignet, of five years ſtanding in Scotland [Order of Lord Chancellor Loughborough, Thurſday 12th July 1798]; but in other parts, the dedimus may be directed to any credible perſons, though thoſe of the above deſcription are certainly the moſt proper.

(6) The attornies name and date.

(7) You ſhould mark in the precipe, whether the writ is to be ſealed at a public or private ſeal, as here.

* Stamp 3s. 6d. i. e. by the 5 Will. III. c. 21. 6d. 9 & 10 Will. III. c. 25. 6d. 12 Geo. I. c. 33. 6d. 32 Geo. II. c. 35. 6d. 23 Geo. III. c. 58. 6d. and by the 35 Geo. III. c. 30. 1s.

† This ſuggeſtion never is the fact now, for the dedimus iſſues, and the acknowledgment is taken before the writ of covenant is made out; but when the

tices of the Bench, between *D. E. Gentleman*, and *A. B. and C. his wife**, concerning [*the parcels*] in *Devonſhire*, that a fine may be levied thereof between them, before our

Curſitor engroſſes the writ of covenant, he makes it correſpond with this ſuggeſtion, by teſting it before the teſte of the dedimus; ſo that it appears to have iſſued firſt, though really laſt.

* Particular care ſhould be taken that the parties are rightly named by their chriſtian and ſurnames, for otherwiſe the fine will be void; and it ſeems the court will not permit the names to be ſet right by an amendment. [See Dixon v. Lawſon & wife, 2 Sir W. Black. Rep. 816.] So if it be a corporation to be named in the fine, it muſt be named by its true corporate name. And here it may be obſerved, that kings, princes, dukes, marquiſſes, earls, viſcounts, and barons, have only their chriſtian names inſerted, as George King of England; George Auguſtus, Prince of Wales; Frederic, Duke of York; Charles, Marquis Cornwallis; Philip, Earl of Cheſterfield; Samuel, Viſcount Hood; Edward, Lord Thurlow. But the additions of biſhop, dean, parſon, &c. may or may not be inſerted, though it is uſual to name the biſhops thus: John, Lord Archbiſhop of Canterbury; Beilby, Biſhop of London, &c. However, there is no occaſion, nor is it uſual to inſert the parties, additions of place, myſtery, occupation, &c.; though if there be two of one name, it is proper to diſtinguiſh them: as if there be a father and ſon of the ſame name, the father ſhould not have any addition, but the ſon ſhould have that of the Younger; and if there be two brothers of one name, the eldeſt ſhould have no addition, but the youngeſt that of the Younger.

ſaid

ſaid Juſtices in the ſame Bench, according to the law and cuſtom of England. And the ſaid *A.* and *C.* * are ſo infirm, that they cannot, without the greateſt bodily danger, travel to Weſtminſter to make the acknowledgements in this behalf required, at the day in our ſaid writ ſpecified, as we are informed †. We, tendering the condition of the ſaid *A. and C.* have given power to you, or two of you, to take the acknowledgments which they the ſaid *A. and C.* ſhall be willing to make before you, or two of

* In none of the writs and proceedings in fines or recoveries are the parties ſurnames inſerted after the firſt time, except two or more of them have the ſame chriſtian name; and then both the chriſtian and ſurnames of ſuch parties are inſerted to diſtinguiſh them from each other.

† This ſuggeſtion is now mere form, as the truth of it is never enquired into: indeed it is ſeldom the fact, the writ being had purely to ſave the parties the trouble and expence of coming to make the acknowledgment in court, and ſometimes to enable them to acknowledge it in vacation, which they could not otherwiſe do. But ſee the ſtatute of Carliſle, 15 Ed. II. where it is provided, that the defendant ſhall appear perſonally, unleſs by age, impotency, or caſualty, he is unable to come before the juſtices in court, and then two of them, or one, with an abbot, a prior, or a knight of good fame and credit, ſhall go to the party and take his cognizance.

you, concerning the premiſſes: and therefore we command you, or two of you, that going in perſon unto the ſaid *A. and C.* you take their ſaid acknowledgments; and when you ſhall have taken the ſame, you diſtinctly and plainly, under your ſeals, or the ſeals of two of you, certify our ſaid Juſtices thereof, that then the fine aforeſaid may be levied between the ſaid parties of the premiſſes before our ſaid Juſtices in the ſame bench, according to the law and cuſtom above mentioned, ſending to the ſame Juſtices this writ. Witneſs ourſelf at Weſtminſter *, the 27th day of *May*, in the 36th year of our reign †.

Peele ‖.

* The dedimus is teſted the day it is ſealed; and ſtands in force but a year from the teſte, though the acknowledgments may be taken after the year; but then the curſitor, when he makes out the writ of covenant, alſo makes out a new dedimus, which is then annexed to the old one, to warrant the caption.

† The dedimus muſt not be teſted prior to the writ of covenant, as it will be error if it is. [Goburn v. Wright, Cro. Eliz. 740. Herbert v. Binion, 1 Roll. Abr. 794] But both the writs may be teſted on the ſame day. [Arundel v. Arundel, Cro. Eliz. 675.]

‖ The curſitor's name.

By

By the Lord Chancellor of Great Britain, at the inſtance of the demandant. Indorſement.

L. C*. Received vj. viij.
In. Fanſhawe ‡.

(*d.*)

Devonſhire, to wit. Command *A. B. and C. his wife*, that juſtly, &c. they perform to *E. F. Gent.* the covenant made between them of [*the parcels*] and unleſs, &c. Precipe and concord of a fine, ſur conuzance de droit come ceo, &c. from a man and his wife to one conuzee.

And the agreement is ſuch (that is to ſay) that the ſaid *A. and C. his wife* have acknowledged the aforeſaid [*the general deſcription of the parcels*] to be the right of him the ſaid *E.*, as thoſe which the ſaid *E.* hath of the gift of the ſaid *A. and C.* and thoſe they have remiſed and quit-claimed from them the ſaid *A. and C.* and the heirs of the ſaid *A.* to the aforeſaid *E.* and his heirs for ever. And, moreover, the ſaid *A. and C.* have granted for them, and the heirs

* The Lord Chancellor's initials.

‡ The receiver of the fines. And the dedimus is now ſtamped with the words, *fine ſub judice deds.* round the initials of the receiver's name, inſtead of being ſigned by one of the Judges, as formerly.

of the ſaid *A.* that they will warrant to the aforeſaid *E.* and his heirs, the aforeſaid [*the general deſcription of the parcels*] againſt them the ſaid *A. and C.*, and the heirs of the ſaid *A.* for ever: and for this, &c.

A. B.
The mark of
C. + B.

Taken and acknowledged at *the city of Exeter* this 3d day of *October*, in the year of our Lord 1796*, before us,

H. J.
K. L.

(*e.*)

The Commiſſioners return of the dedimus poteſtatem.

The execution of this writ appears by a certain ſchedule † hereto annexed.

H. I.
K. L.

* The day and year the acknowledgement was taken muſt be certified; and the officers of the court are not to receive the writ of covenant without. 23 Eliz. c. 3. ſ. 5.

† See Earl of Bedford v. Forſter, Cro. Jac. 77.

(*f.*)

(*f.*)

In the Common Pleas.

Affidavit of the acknowledgement of the fine by a commissioner.

* *H. I. of the city of Exeter*, Gentleman, one of the attornies of his Majesty's court of *King's Bench*, and one of the Commissioners named in the writ of dedimus potestatem, for taking the acknowledgment of the fine hereunto annexed, maketh oath and saith, That he knows *A. B. and C. his wife*, the Conuzors named in the said fine; and that the same was duly signed and acknowledged by them before this deponent and *K. L.* Gentleman, the other Commissioner, named in the said writ, and that the said *A. B. and C. his wife*, and also this deponent and the said *K. L.* were, at the time of the taking and acknowledging the said fine, all of full age and competent understanding. That the said *C.* was solely and separately examined apart from her said husband, and freely and voluntarily consented to and acknowledged the said fine; and that the Conuzors, and each of them knew the

* Stamp 2s. i. e. by 5 Will. III. c. 21. 6d. 9 & 10 Will. III. c. 25. 6d. 32 Geo. II. c. 35. 6d. and by the 35 Geo. III. c. 30. 6d.

same

ſame to be a fine, to paſs his, her, or their eſtates or eſtate: And this deponent farther ſaith, that the ſaid fine was duly ſigned and acknowledged upon the day and year mentioned in the caption *.

H. I.

Sworn at *the city of Exeter aforeſaid*, this 3d day of *November* 1796, before me, *K. L.* a Commiſſioner, &c.

(*f.*)

In the Common Pleas.

General form of the affidavit when made by a commiſſioner.

A. B. of . . . . . *in the county of* . . . . . one of the Attornies of his Majeſty's court of K. B. or C. B. at Weſtminſter and one of the Commiſſioners named in the writ of dedimus poteſtatem, for taking the acknowledgment of the fine hereunto annexed †, maketh oath and ſaith, That he knows *C. D. and*

* See note in p. 60.

† The commiſſioners muſt now be barriſters of five years ſtanding, or ſolicitors or attornies in ſome of the courts in Weſtminſter Hall in England; and in Scotland judges of the court of ſeſſion and exchequer, or advocates and clerks to the ſignet, of five years ſtanding. Order Mich. Term, 39 Geo. III.

E. his

E. his wife, and *F. G. and H. his wife*, the Conuzors named in the ſaid fine; and that the ſame was duly ſigned and acknowledged by them before this deponent and *J. K.* Gentleman, the other Commiſſioner named in the ſaid writ, on the day and year [*or ſeveral days and years*] mentioned in the caption [*or ſeveral captions*] thereof; and that the ſaid *C. D. and E. his wife*, and *F. G. and H. his wife*: and alſo this deponent and the ſaid *J. K.* were, at the time of taking and acknowledging the ſaid fine, all of full age and competent underſtanding: That the ſaid *E. and H.* were ſolely and ſeparately examined apart from their huſbands, and freely and voluntarily conſented to and acknowledged the ſaid fine. And that the ſaid Conuzors, and every of them, knew the ſame to be a fine to paſs his, her, or their eſtate or eſtates. And this deponent further ſaith, that the razure [*or razures, interlineation or interlineations, if any*] appearing to be made in the body [*or caption*] of the ſaid fine, was [*or were*] made before any of the ſaid parties ſigned the ſame, and before the ſaid commiſſioners ſigned the ſaid caption [*or captions*] *.

A. B.

* Order Hilary Term, 17 Geo. II. and Trinity Term,

(f.)

In the Common Pleas.

The like where the affidavit is not made by a commiſſioner.

A. B. of . . . . . in *the county of* . . . . . one of the attornies of the court of . . . . . maketh oath and ſaith, that he knows *C. D. and E. his wife; and F. G. and H. his wife,* the conuzors named in the fine hereunto annexed. And that the ſaid fine was duly ſigned and acknowledged by them in this deponent's preſence, on the day and year [*&c.*]: And that they the ſaid *C. D. and E. his wife, and F. G. and H. his wife*; and alſo *J. K. and L. M.*, Gentlemen, the commiſſioners taking the ſame fine, were, at the time of taking thereof, all of full age. [*&c. as in the other*] And this deponent further ſaith, that the ſaid commiſſioners are, to the beſt of this deponent's information and belief, attornies of his Majeſty's court of *King's Bench* at Weſtminſter *.

(g.)

Terms, 26 & 27 Geo. II. and though the word obliterations is not in the orders, yet where there are any, the judges require them to be noticed in the affidavit. See the following note.

* The affidavit muſt now ſtate, that the commiſſioners

(g.)

Upon reading the affidavit of *H. I.*, Gentleman, hereto annexed, of the due execution of this fine, let it paſs. The judge's allocatur thereon.

G. Rooke *.

(h.)

The execution of this writ, *as to* the acknowledgment of the within named *A. B. C. B. and D. B.* appears by a certain ſchedule hereto annexed. The commiſſioners return of the dedimus as to the acknowledgment of the conuzors out of England.

James Lee,
Geo. Taylor.

Taken and acknowledged at *Charleſton, in the ſtate of South Carolina, in North America*, by the above named *A. B., C. B.* The caption.

ſioners taking the caption of the fine, to the beſt of the deponent's information and belief, are either barriſters of five years ſtanding, or ſolicitors or attornies of ſome of the courts in Weſtminſter Hall; the judges of the court of ſeſſion and exchequer, or advocates and clerks to the ſignet of five years ſtanding, in Scotland. Order Mich. Term, 39 Geo. III.

* The judge's ſignature.

and

and D. B., the 1ſt day of *June*, in the year of our Lord 1796, before us,

James Lee,
Geo. Taylor.

(i.)

The affidavit of ſuch caption made by a commiſſioner.

* *George Taylor of Charleſton, in the ſtate of South Carolina, in North America,* Gentleman, one of the attornies of the court of *Common Pleas* at Weſtminſter, in the kingdom of Great Britain, and one of the commiſſioners named in the writ of dedimus poteſtatem, for taking the acknowledgment of the fine hereunto annexed, maketh oath and ſaith, that he knows *A. B.*, *C. B.*, *and D. B.* three of the conuzors named in the ſaid fine; and that the ſame was duly ſigned and acknowledged by them reſpectively before this deponent: and *James Lee*, one other of the commiſſioners named in the ſaid writ, on the day and year mentioned in the caption of the ſaid fine as to the acknowledgement thereof by the ſaid *A. B.*, *C. B. and D. B.*; and that the ſaid *A. B.*, *C. B.*, *and D. B.* and alſo this deponent, and the ſaid *James Lee*, were, at the

* Stamp 2s. See note in p. 57.

time

time of taking and acknowledging the ſaid fine, all of full age and competent underſtanding; and that the ſaid *A. B.*, *C. B.*, *and D. B.*, and every of them, knew the ſame to be a fine to paſs their reſpective eſtate and eſtates.

Geo. Taylor.

Sworn at *Charleſton aforeſaid*, *the 1ſt* day of *June*, in the year of our Lord 1796, before me,

Jacob Drayton, Prothonotary.

Court of Common Pleas. Charleſton Diſtrict.

(k.)

Notary public's certificate thereof.

I, *John Sandford Dart*, notary public, of lawful authority, admitted and ſworn, dwelling in *the city of Charleſton, in the ſtate of South Carolina, in North America*, hereby certify, that *George Taylor, of Charleſton, in the ſtate of South Carolina, in North America, Gentleman*, on the 1ſt day of *June inſtant*, was ſworn in my preſence to the truth of the affidavit hereunto annexed, by and before *Jacob Drayton, Eſq. prothonotary of the court of Common Pleas for Charleſton diſtrict.*

district. And I do hereby certify, that the said *Jacob Drayton* is *prothonotary* of the said court; and as such, usually * administers oaths; and that the name *George Taylor*, subscribed to the said affidavit, and also the name *Jacob Drayton*, subscribed to the jurat thereof, are of the respective proper hands-writing of the said *George Taylor* and *Jacob Drayton*, and were respectively signed by them in my presence. In testimony whereof, I have hereunto set my hand and notarial seal the *first* day of *June*, in the year of our Lord 1796 †.

(Seal) *John Sandford Dart*,
Notary Public ‡.

(I.)

* The affidavit must be made before a person who *usually* administers oaths; and therefore, where one had been acknowledged before his Britannic Majesty's *Consul* at Petersburgh, an allocatur was refused, as it did not appear (upon enquiry) that he had authority to administer oaths.

† To be wrote on the back of the affidavit, or on a separate piece of parchment, without any interlineation or erasure.

‡ If the Notary be not present at the time of making the affidavit before the magistrate, there must be also annexed an affidavit of the public notary,

(l)

Upon reading the certificate of *John Sandford Dart*, notary public, hereto annexed, and the affidavit of *George Taylor*, Gentleman, hereto alſo annexed, of the due execution of this fine by *A. B. C. B. and D. B. three* of the Conuzors,—let it paſs as to them. Allocator thereon.

G. Rooke.

notary, ſtating, that he ſhewed the affidavit of the Commiſſioner to the magiſtrate before whom it appeared to have been taken, and that ſuch magiſtrate acknowledged it to have been ſworn before him by the deponent therein mentioned, on the day ſtated in the affidavit. This affidavit muſt be ſworn before ſome other magiſtrate, and the notary muſt certify that the perſon before whom the Commiſſioners affidavit appears to have been ſworn was the magiſtrate he ſtates himſelf to be; and that the perſon before whom he and the notary made his affidavit was alſo a magiſtrate duly authorized to adminiſter oaths; and that the name of the magiſtrate laſt mentioned, ſubſcribed to ſuch affidavit, was the proper hand-writing of ſuch magiſtrate.

(m.)

Caption by the Commiſſioners in England.

Taken and acknowledged at the pariſh of *St. Mary, Newington, in the county of Surrey*, by the above named *J. T. and A. his wife*, the 20*th* day of *January* 1796, before us,

William Hands.
William Bowring.

(o.)

Allocator thereon.

Upon reading the affidavit of *William Hands*, Gentleman, hereto annexed, of the due execution of this fine by *J. T.* and *A. his wife*,—let it paſs as to them.

G. Rooke.

(p.)

Precipe for writ of covenant.

Devon.—Command *A. B. and C. his wife*, that juſtly, &c. they perform to *D. E. Gentleman*, the covenant made between them of, [*&c.*] and unleſs, &c.

Writ of covenant, to be ſealed at the next *public* ſeal.

Hands, 20*th May*, 1796.

George

(q.)

Writ of covenant.

* *George the Third*, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. To the ſheriff of *Devonſhire*, greeting.—Command *A. B. and C. his wife*, that juſtly and without delay, they perform to *D. E. Gentleman*, the covenant made between them concerning [*the parcels*]; and unleſs they ſhall ſo do, and the ſaid *D. E.* ſhall give you ſecurity to proſecute his ſuit, then ſummon by good ſummoners the ſaid *A. B. and C. his wife*, that they be brought before our Juſtices at Weſtminſter, *on the Morrow of All Souls*, to ſhew why they will not do it; and have you there the ſummoners and this writ. Witneſs †ourſelf at Weſtminſter, the 26*th* day of *May*, in the 36*th* year of our reign.

Peele ‡.

* The ſtamp now is 1*l.* 10*s. i. e.* by 5 Will. III. c. 21. 5*s.*—19 Geo. III. c. 66. 5*s.*—23d Geo. III. c. 58. 5*s.*, and by the 37th Geo. III. c. 90. 15*s.*

† See note in p. 54.

‡ The Curſitor's name.

(r.)

The different indorſements of the ſeveral officers thereon.

By *C. Flood* for the fine beneath; becauſe it is affirmed that the within contents exceed not the yearly value of xliij *.

C. Flood †.

‡ Pledges of proſecution { *John Doe*, *Richard Roe*.

‡ Summoners . { *John Denn*, *Richard Fenn*.

Arthur Tremayne, *Eſq.* Sheriff ‡.

l. s. d.

P. F. iiij. vj. viij §.

G. Courthope ¶.

l. s. *Edward Cayley* ¶.

Pr. F. vj. x ||. *G. Canning* **.

* The commiſſioners at the Alienation Office ſet the value of the premiſſes where it is not ſworn to, according to the number of the parcels; and one of the Commiſſioners marks ſuch value with the amount of the poſtfine at the bottom of the back of the writ, and alſo there ſigns his name; then the entering clerk writes the above at the top of the writ, whether the value has been ſworn to or not, and afterwards the maſter in chancery attending the office, and before whom the oath or affirmation is ſuppoſed to be made, ſigns his name under it as here.

† The Maſter's ſignature.

‡ The Clerk of the Return Office's indorſement.

§ Prefine 4l. 6s. 8d. as marked by the Commiſſioners at the Alienation Office.

¶ The Commiſſioners ſignatures.

|| Poſtfine, 6l. 10s.—Do.

** The Receiver's ſignature.

Michaelmas

Michaelmas Term, 37*th* King *George* the 3d.*

4 Roll*.

l.	*s.*
P. F. vj.	x. *

J. C. ||

l.

xliij. ¶

l.	*s.*
P. F. vj.	x. §

Edward Cayley ‡.

* The mark of the poſtfine, &c. by the clerk at the King's Silver Office.

|| The initials of the entering clerk at the Alienation Office.

¶ The ſum the premiſſes were valued at annually, *i. e.* 43l.

§ Poſtfine.

‡ The Commiſſioner's ſignature who ſet the fine.

(s.)

The table of the Commiſſioners rates of the preſine by the purchaſe-money, tack rent, and number of acres.

Rates of the Preſine by the Purchaſe-Money.

l.		*l.*	*l.*	*s.*	*d.*
From 0	to under	40	0	0	0
40	- -	100 -	0	6	8
100	- -	150 -	0	10	0
150	- -	200 -	0	13	4
200	- -	250 -	0	16	8
250	- -	300 -	1	0	0
300	- -	350 -	1	3	2
350	- -	400 -	1	6	4
400	- -	450 -	1	10	0
450	- -	500 -	1	13	4
500	- -	550 -	1	16	8
550	- -	600 -	2	0	0
600	- -	650 -	2	3	4
650	- -	700 -	2	6	8
700	- -	750 -	2	10	0
750	- -	800 -	2	13	4
800	- -	850 -	2	16	8
850	- -	900 -	3	0	0
900	- -	1000 -	3	0	0

(s.)

Rates of the Prefine by the Annual Rack Rent.

	l.	*s.*	*d.*		*l.*	*s.*	*d.*		*l.*	*s.*	*d.*
From	0	0	0	to	3	6	8	-	0	0	0
	3	6	8	to under	12	10	0	-	0	6	8
	12	10	0	-	25	0	0	-	0	10	0
	25	0	0	-	35	6	8	-	0	13	4
	33	6	8	-	41	13	4	-	0	16	8
	41	13	4	-	50	0	0	-	1	0	0
	50	0	0	-	58	6	8	-	1	3	4
	58	6	8	-	66	13	4	-	1	6	8
	66	13	4	-	75	0	0	-	1	10	0
	75	0	0	-	83	6	8	-	1	13	4
	83	6	8	-	91	13	4	-	1	16	8
	91	13	4	-	100	0	0	-	2	0	0

(s.)

Rates of the Prefine by the No. of Acres of Land, Meadow, and Paſture.

	Acres		Acres	£.	*s.*	*d.*
From	0	to under	60	- 0	6	8
	60	-	100	- 0	10	0
	100	-	133	- 0	13	4
	133	-	166	- 0	16	8
	166	-	200	- 1	0	0
	200	-	233	- 1	3	4
	233	-	266	- 1	6	8
	266	-	300	- 1	10	0
	300	-	333	- 1	13	4
	373	-	366	- 1	16	8
	366	-	400	- 2	0	0

(*t.*)

Affidavit of the rack rent of the premiſſes.

* In the Common Pleas.

Between *D. E.* . . . Plaintiff,
and
A. B. and *C. his wife*, . . Deforceant.

Middleſex, to wit. Of [*the parcels*] *D. E.* of [&c †.] maketh, oath and faith, that the whole *rack* rent ‖ of the premiſſes above mentioned, doth not exceed the yearly value ‡ of *twenty* pounds.

(*t.*)

The like of the purchaſe-money or value.

In the Common Pleas.

Glouceſterſhire, to wit.—Command *A. B.* and *C. his wife*, that juſtly, &c. they perform to *D. E.* the covenant made between them of [*the parcels*,] and unleſs, &c.

P. B. of [&c.] *Gentleman*, maketh oath and faith, that the *purchaſe-money*, or *value* of the premiſſes mentioned in the above written precipe, doth not exceed the ſum of *two hundred* pounds.

* Stamp 2s.—See note in p. 57.

† The affidavit may be made by either of the parties, or any other perſon who can ſpeak to the fact.

‖ "Or clear," and ſee p. 11.

‡ Or, "are not worth to be let by the year more than the annual ſum of 20*l.*"

Michaelmas

(u.)

Warrant of Attorney.

Michaelmas Term, in the 37*th* year of the Reign of King George the *Third* *.

Devonſhire, to wit.—*E. F.* puts in his ſtead *William Hands*, his attorney, to proſecute his writ of covenant againſt *A. B. and C. his wife*, of lands and tenements, with the appurtenances in *L. S. and E.*

(v.)

Cuſtos Brevium's indorſement of the proclamations on the concord.

Proclaimed *Michaelmas* Term, 37*th* *George* III. 1796.

(w.)

Judges order for a fine to paſs as to the ſurviving Conuzors.

C. D. and E. his wife, Conuzors, and *E. F.* Conuzee. } Upon reading the affidavit of *A. B.* by which it appears, that ſince the acknowledgment of the ſaid fine the ſaid *C. D. is dead*, I order that the ſaid fine do paſs through the ſeveral offices *as to the ſurvivor*. Dated [&c.]

F. Buller.

* The term the writ of covenant is returnable.

C. D.

Judges order for a fine to paſs where it has been acknowledged above 12 calendar months.

C. D. and E. his wife,
F. G. and H. his wife,
Conuzors,
and
J. K. Conuzee.

Upon reading the affidavit of *A. B.* by which it appears that *all* the *Conuzors* in the fine hereto annexed were *living* at the time of making the ſaid affidavit, I order that the ſaid fine do paſs through the ſeveral offices, though the ſame appears to have been *acknowledged* more than a *year* ago. Dated [&c.]

F. Buller.

(*x.*)

Indentures.

This is the final agreement made in the Court of our Sovereign Lord the King, at Weſtminſter, *on the Morrow of All Souls* *, in the *thirty-ſeventh* year of the reign of King *George the Third*, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. before *James Eyre*, *Francis Buller*, *John Heath*, *and Giles Rooke*, Juſtices of our Lord the King and others, then and there preſent, between *D. E.* Gentleman, plaintiff, and *A. B.* and *C.* his wife, deforceants, of [*the parcels,*] whereupon a plea of covenant was ſum-

* The return of the writ of covenant.

moned

moned between them in the ſame court, (that is to ſay*) "That the aforeſaid *A. and* "*C.* have acknowledged the aforeſaid [*the* "*general words*] to be the right of him the "ſaid *D.* as thoſe which the ſaid *D.* hath of "the gift of the ſaid *A.* and *C.*, and thoſe "they have remiſed and quit-claimed from "them the ſaid *A. and C.*, and the heirs of "the ſaid *A.* to the aforeſaid *D.* and his heirs "for ever. And, moreover, the ſaid *A. and* "*C.* have granted for them and the heirs of "the ſaid *A.* that they will warrant to the "aforeſaid *D.* and his heirs, the aforeſaid [*the* "*general words*] againſt them the ſaid *A. and* "*C.*, and the heirs of the ſaid *C.* for ever." And for this acknowledgment, remiſe, quit-claim, warranty, fine, and agreement, the ſaid *D.* hath given to the ſaid *A. and C. one hundred and ſixty* pounds † ſterling.

(*y.*)

This is the final agreement made in the court of our Sovereign Lord the King, at Weſtminſter, on the Morrow of All Souls ‡, Indentures where the fine is not engroſſed till after the term, the writ of covenant is returnable.

* The part dotted againſt, is governed by the concord.

† This ſum is governed by the fine ſet by the Commiſſioners at the Alienation Office, and which the Chirographer's clerk inſerts in the indentures of courſe.

‡ The return of the writ of covenant.

in

in the *thirty-ninth* year of the reign of *King Geo. the Third*, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. before *James Eyre, Francis Buller, John Heath, and Giles Rooke:* and afterwards, *in eight days of the Purification of the Bleſſed Mary* *, in the aforeſaid year of the reign of the ſaid King *George*, there allowed and recorded before the ſame Juſtices of our Lord the King and others, then and there preſent, between, &c.

[*The reſt is the ſame as the above precedent.*]

(z.)

The Chirographer's indorſement of the proclamations on the foot of the fine.

The *firſt* proclamation was made the *eleventh* day of *November*, in *Michaelmas* Term, in the *thirty-ſeventh* year of the King within written.

The *ſecond* proclamation was made the *firſt* day of *February*, in *Hilary* Term, in the *thirty-ſeventh* year of the King within written.

The *third* proclamation was made the *tenth* day of *May*, in *Eaſter* Term, in the *thirty-ſeventh* year of the King within written.

The *fourth* proclamation was made the *firſt* of *July*, in the *thirty-ſeventh* year of the King within written.

* The laſt return of the term, in the vacation of which the fine was engroſſed.

Fines

(*a a.*)

Fines engroſſed and proclaimed of *Michaelmas* Term, in the *thirty-ſeventh* year of the reign of *George the Third*, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. and in the year of Our Lord 1796.

The Chirographer's table of the fines hung up in the court.

BEDFORDSHIRE.

Between *William Townſend*, Plaintiff, and *Richard Ambroſe Reddall* *, *in Lidlington*, † &c.

BERKSHIRE.

Between *Thomas Chriſtmas*, Plaintiff, and *John Becer, and W. &c.* * *in P. Sunninghill* †.

BUCKINGHAMSHIRE.

Between *Matthew Deverell*, Plaintiff, and *Edward Higgins, and W. &c.* *, *in P. Swanbourne*, † *&c.*

CAMBRIDGESHIRE.

Between *Thomas Janrou*, Plaintiff, and *John Tate, and W**. *in Br* †.

* The parties names.

† The names of the places where the parcels lie.

DEVON-

DEVONSHIRE.

Between *Francis Croſs*, Plaintiff, and *John Stephens and W*. in Lower Shilſton, &c* †.

[*So the Table goes on through all the counties, &c. alphabetically.*]

Precipe, where the lands lie in different counties, with the concord of a fine, fur conuzance de droit, come ceo, &c. thereon, from a man and his wife to two joint purchaſers.

Oxfordſhire ‡, to wit.—Command *A. B. and C. his wife*, that juſtly, &c. they perform to *D. E. and F. G.* the covenant made between them of [*the parcels in this county.*]

Devonſhire, to wit.—Command the ſame, that juſtly, &c. they perform to the ſame covenant made between them of [*the parcels in this county.*]

And the agreement is ſuch (that is to ſay) that the ſaid *A. and C.* have acknowledged the ſaid [*the general deſcription of the whole*

* The parties names.

† The names of the places where the parcels lie.

‡ Though the lands lie in ſeveral counties, yet one dedimus will do; but you only ſave the expence of the ſtamps, as the C urſitor charges the ſame as if there were ſeparate writs. Indeed, there muſt be ſeparate writs of covenant, and you pay the ſame fees at the ſeveral offices (except for the allocatur) as if they were diſtinct fines in each writ of covenant.

parcels]

of the parcels] to be the right of them the ſaid *D. and F.* as thoſe which the ſaid *D. and F.* have of the gift of the ſaid *A. and C.*, and thoſe they have remiſed and quit-claimed from them the ſaid *A. and C.*, and the heirs of the ſaid *A**. to the aforeſaid *D. and F.* and their† heirs for ever. And, moreover, the ſaid *A.* hath granted for himſelf and his heirs, that he will warrant to the aforeſaid *D. and F.* and their heirs [*the general deſcription of the parcels*] againſt him the ſaid *A.* and his heirs for ever; and for this, &c.

(c c.)

Concord of a joint fine, ſur conuzance de droit, come ceo, &c. of different premiſſes, from two vendors and their wives to two vendees.

And the agreement is ſuch (that is to ſay) That the ſaid *A. and B. and C. his wife, and D. E. and F. his wife* ‡, have acknowledged the

* The fee being in the huſband; but where it is the wife's eſtate, her name is inſerted here, and not the huſband's.

† Where the Conuzees are joint purchaſers, the grant and warranty muſt be to them and their heirs. 4 Wood's Conveyancing by Powell, title Fines; but otherwiſe, though there are ſeveral conuzees, it can only be limited to one of them, and his or her heirs, as in the next concord.

‡ Lands bought of ſeveral vendors by different purchaſers may paſs in one fine, if the parcels are inconſideable; that is, if the value of all the parcels together do not exceed 20*l.* therefore the affidavit of the caption

the aforeſaid [*general deſcription of the whole of the premiſſes*] to be the right of them the ſaid *G. H. and J. K.* as thoſe which the ſaid *G. and J.* have of the gift of the ſaid *A. and C. and D. and F.*, and thoſe they have remiſed and quit-claimed from them the ſaid *A. and D.* to the aforeſaid *G. and J.* and their heirs. And, moreover, the ſaid *A.* hath granted for himſelf and his heirs, that he will warrant to the aforeſaid *G. and J.* [*his ſeparate part of the parcels*] part of the ſaid [*the general deſcription of the whole*] againſt him the ſaid *A.* and his heirs for ever. And further, the ſaid *D.* hath granted for himſelf and his heirs, that he will warrant to the aforeſaid *G. and J.* [*his ſeparate part of the parcels*] reſidue of the ſaid [*the general deſcription of the whole*] againſt him the ſaid *D.* and his heirs for ever; and for this, &c.

(d. d.)

Concord of a fine ſur conuzance de droit come ceo, &c. where there are ſeveral conuzees who are not joint purchaſers.

And the agreement is ſuch, (*that is to ſay*) That the ſaid *A.* hath acknowledged the

tion ſhould alſo ſtate that the purchaſe-money or value of the whole of the premiſſes does not exceed 200l. and then the writ of covenant is brought by all the vendees againſt all the vendors, and each vendor warrants for himſelf and his heirs his part of the lands.

aforeſaid

aforeſaid [*the general deſcription of the parcels*] to be the right of him the ſaid *B.* as thoſe which the ſaid *B. and C.* have, of the gift of the ſaid *A.*, and thoſe he hath remiſed and quit-claimed from him the ſaid *A.* and his heirs, to the aforeſaid *B. and C*, and the heirs of the ſaid *B.* for ever. And, moreover, the ſaid *A.* hath granted, for himſelf and his heirs, that he will warrant the aforeſaid [*the general deſcription of the parcels*] againſt him the ſaid *A.* and his heirs for ever; and for this, &c.

(e e.)

Concord of a fine ſur conuzance de droit tantum of a reverſion from a man and his wife to one conuzee.

And the agreement is ſuch (to wit) that the aforeſaid *A. and C.* have acknowledged the aforeſaid [*the general deſcription of the parcels*] to be the right of the ſaid *D.*; and have granted that the ſaid [*the general deſcription of the parcels*] which *E. F.* on the day this agreement was made, holds for the term of her life of the inheritance of the ſaid *C.*, and which, after the deceaſe of the ſaid *E.*, ought to revert to the aforeſaid *C.*; and her heirs ſhall, immediately after the deceaſe of the ſaid *E.* wholly remain to the ſaid *D.* and his heirs for ever. And, more-

over, the ſaid *A. and C.* have granted for themſelves and the heirs of the ſaid *C.* that they will warrant to the ſaid *D.* and his heirs, the aforeſaid [*the general deſcription of the premiſſes*] as is aforeſaid, againſt them the ſaid *A. and C.* and the heirs of the ſaid *C*, for ever; and for this, &c.

(f f.)

Concord of a fine ſur conceſſit, from a man and his wife, for a term of years, rendering rent.

And the agreement is ſuch (to wit) that the aforeſaid *A. and C.* have granted the aforeſaid [*the general deſcription of the premiſſes*] to the aforeſaid *D.* to have and to hold to the ſaid *D.* from the 25th day of *December* laſt paſt, until the end and term of *ninety-nine* years from thence next enſuing, and fully to be complete and ended; rendering, therefore, yearly to the ſaid *A.* and his heirs, *fifty pounds* of lawful money of Great Britain, on the 24th day of *June* and the 25th day of *December*, to be paid by equal portions yearly, during the ſaid term. And the ſaid *A. and C.*, and the heirs of the ſaid *A.* will warrant to the aforeſaid *D.* the [*the general deſcription of the parcels*] as is aforeſaid againſt them the ſaid *A. and C.* and the

the heirs of the ſaid *A.* during the term aforeſaid. And for this, &c.

(*g g.*)

Concord of a fine ſur donne, with a grant and render to a man and his wife, for their lives, remainder to their ſon in tail, remainder to the father in fee.

And the agreement is ſuch (to wit) that the aforeſaid *A. and C.* have acknowledged the aforeſaid [*the general deſcription of the parcels*] to be the right of him the ſaid *D.* as thoſe which the ſaid *D.* hath of the gift of the ſaid *A. and C.*; and thoſe they have remiſed and quit-claimed from them the ſaid *A. and C.* and the heirs of the ſaid *A.* to the aforeſaid *D.*, and his heirs for ever. And, moreover, the ſaid *A. and C.* have granted for them, and the heirs of the ſaid *A.* that they will warrant to the aforeſaid *D.* and his heirs, the aforeſaid [*the general deſcription of the parcels*] againſt them the ſaid *A. and C.*, and the heirs of the ſaid *C.* for ever. And for this acknowledgment, remiſe, quit-claim, warranty, fine, and agreement, the ſaid *D.* hath granted to the ſaid *A. and C.* his wife, the aforeſaid [*the general deſcription of the parcels*] and thoſe he hath rendered to them in the ſame court, to have and to hold to the aforeſaid *A. and C.* from the 24th day of *June* laſt paſt, for

and during the lives of the ſaid *A. and C.* and the life of the longer liver of them, without impeachment of waſte; rendering, therefore, yearly to the ſaid *D.* and his heirs, *one pepper-corn*, on the 24th day of *June* aforeſaid, to be paid yearly, during the lives of the ſaid *A. and C.* and the life of the longer liver of them, if demanded. And after the deaths of the ſaid *A. and C.* the [*the general deſcription of the parcels*] ſhall entirely remain to *E. F. ſon of the ſaid C. A.* and the heirs of the body of the ſaid *E.* begotten for ever. And if the ſaid *E.* ſhall die without iſſue of his body lawfully begotten, then the [*the general deſcription of the parcels*] ſhall remain to the right heirs of the ſaid *A.* for ever.

HILARY TERM.

ENTRY.	SUMMONS.	SEISIN. †
1. In eight days of St. Hilary.	In eight days of the Purification of the bleſſed Mary.	From Eaſter Day in fifteen days.
2. In fifteen days of St. Hilary.	From Eaſter Day in fifteen days.	From Eaſter Day in five weeks.
3. On the Morrow of the Purification of the bleſſed Mary.	From Eaſter Day in three weeks.	On the Morrow of the Aſcenſion of our Lord.
4. In eight days of the Purification of the bleſſed Mary.	From Eaſter Day in one month.	Forthwith.

† The writ of ſummons is returnable on the fourth general return, incluſive, from the return of the writ of entry; and when there are more writs of ſummons than one, each writ is returnable on the fourth general return, incluſive, from the return of the former one; and the writ of ſeiſin is returnable on the fourth general return, incluſive, from the return of the writ of ſummons; but if there is not that number of general returns left in the term, then this writ is made returnable forthwith, except the writ of ſummons be returnable the laſt return of Hilary, Trinity, or Michaelmas term; and then the writ of ſeiſin is made returnable the firſt return of the next term; and if the writ of ſummons is returnable the laſt return of Eaſter term, the writ of ſeiſin is made returnable the ſecond return of Trinity, as may be ſeen by the Table. And ſee 24 Geo. II. c. 48.

Table of the returns of the writs where the vouchee comes in by ſummons.

EASTER TERM.

ENTRY.	SUMMONS.	SEISIN.
1. From Eaſter Day in fifteen days	From Eaſter Day in five weeks.	Forthwith.
2. From Eaſter Day in three weeks	On the Morrow of the Aſcenſion of our Lord.	In eight days of the Holy Trinity.
3. From Eaſter Day in one month.	On the Morrow of the Holy Trinity.	In three weeks of the Holy Trinity.
4. From Eaſter Day in five weeks.	In eight days of the Holy Trinity.	Forthwith.
5. On the Morrow of the Aſcenſion of our Lord.	In fifteen days of the Holy Trinity.	Forthwith.

TRINITY

TRINITY TERM.

ENTRY.	SUMMONS.	SEISIN.
1. On the Morrow of the Holy Trinity.	In three weeks of the Holy Trinity.	On the Morrow of All Souls.
2. In eight days of the Holy Trinity.	On the Morrow of All Souls.	In fifteen days of St. Martin.
3. In fifteen days of the Holy Trinity.	On the Morrow of St. Martin.	Forthwith.
4. In three weeks of the Holy Trinity.	In eight days of St. Martin.	Forthwith.

MICHAELMAS TERM.

ENTRY.	SUMMONS.	SEISIN.
1. On the Morrow of All Souls.	In fifteen days of St. Martin.	In eight days of St. Hilary.
2. On the Morrow of St. Martin.	In eight days of St. Hilary.	On the Morrow of the Purification of the bleſſed Mary.
3. In eight days of St. Martin.	In fifteen days of St. Hilary.	Forthwith.
4. In fifteen days of St. Martin.	On the Morrow of the Purification of the bleſſed Mary.	Forthwith.

HILARY TERM.

ENTRY.	SEISIN. *
1. In eight days of St. Hilary.	In eight days of the Purification of the bleſſed Mary.
2. In fifteen of St. Hilary.	Forthwith.
3. On the Morrow of the Purification of the bleſſed Mary.	Forthwith.
4. In eight days of the Purification of the bleſſed Mary.	From Eaſter Day in fifteen days.

EASTER TERM.

1. From Eaſter Day in fifteen days.	From Eaſter Day in five weeks.
2. From Eaſter Day in three weeks.	On the Morrow of the Aſcenſion of our Lord.
3. From Eaſter Day in one month.	Forthwith.
4. From Eaſter Day in five weeks.	Forthwith.
5. On the Morrow of the Aſcenſion of our Lord.	In eight days of the Holy Trinity.

* In this caſe the writ of ſeiſin is returnable the fourth general return from the return of the writ of entry; and if there is not general returns ſufficient left in the term, then it is in general returnable forthwith. But ſee note at the foot of page 85.

Where all the parties appear at bar.

TRINITY TERM.

1. On the Morrow of the Holy Trinity.
2. In eight days of the Holy Trinity.
4. In fifteen days of the Holy Trinity.

In three weeks of the Holy Trinity.

In three weeks of the Holy Trinity.
Forthwith.
Forthwith.
On the Morrow of All Souls.

MICHAELMAS TERM.

1. On the Morrow of All Souls.
2. On the Morrow of St. Martin.
3. In eight days of St. Martin.
4. In fifteen days of St. Martin.

In fifteen days of St. Martin.
Forthwith.
Forthwith.
In eight days of St Hilary.

(i i.)

Cornwall, to wit. Command *C. D.* that juſtly, &c. *he* render to *A. B. the manor of S. with the appurtenances in the pariſh of T.* which *he* claims, &c. Precipe for the dedimus poteſtatem, to take the vouchee's warrant of attorney.

Sir H. J. Baronet.

Dedimus * for *E. F. and G. his wife* whom *C. D.* vouches to warranty. } directed to { *K. L. M. N. O. P. Q. R.* } Gent.

(k k.)

† *George the Third*, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. To our truſty and well-beloved *Sir H. I. Baronet*, and to our beloved *K. L. M. N. O. P. and Q. R.* Gentlemen, greeting. Whereas our writ of Writ of dedimus poteſtatem.

* If the recovery be with treble voucher, and it be to take the ſecond vouchee's warrant, ſay, "E. F. (the firſt vouchee) whom C. D. (the tenant) vouches "to warranty, further vouches G. H."; (the ſecond vouchee) and if the tenants, you may ſay, "for the tenant."

† Stamp 3s. 6d. See note in p. 51.

entry

entry upon diſſeiſin in le poſt is depending * before our juſtices of the bench, between *A. B.* and *C. D.* concerning *the manor of S. with the appurtenances, in the pariſh of T. in the county of Cornwall*; and the ſaid *C. D.* appearing in full court † before our ſaid juſtices, *hath* vouched *E. F. and G. his wife*, to warrant to *him* the *manor* aforeſaid, with the appurtenances; whereupon our writ of ſummons to warrant hath iſſued forth ‡ againſt the ſaid *E. and G.* returnable before our juſtices, *from Eaſter Day in three weeks*. And foraſmuch as the ſaid *C. E. and G. are* ſo infirm that *they* cannot, without the greateſt bodily danger, travel to Weſtminſter at the day in our ſaid writ of ſummons to warrant contained, to do and act thoſe things which then and there ſhall be expedient to be

* Though the writ of entry is here ſuppoſed to have iſſued, yet in practice it is not now made out until the dedimus is returned; but the Curſitor teſtes the writ of entry, ſo as to make it appear to have iſſued firſt.

† The tenant does not appear at bar now, until the dedimus is returned, and the writ of entry has iſſued. See p. 32.

‡ The writ of ſummons is now not made out until the dedimus is returned; but when it iſſues, the Curſitor makes it correſpond with this recital of it. And if the acknowledgment of the vouchee cannot

be done, in the ſame as we are informed * we tendering the condition of the ſaid *E.* *and* *G.* have given to you, or two of you, power and authority to receive the attorney

not be taken on or before the day the writ of ſummons is here ſtated to be returnable, yet the acknowledgment may be taken afterwards; but then the Curſitor, when he makes out the mittimus and tranſcript reſeals the dedimus, after enlarging the return of the writ of ſummons to the next general return day, after the acknowledgment was taken to warrant the caption, as the acknowledgment muſt not appear to have been taken after the return of the writ of ſummons; and therefore, if the acknowledgment is not taken before or on the laſt general return day of the term, the recovery cannot be ſuffered of that term, as the writ of ſummons muſt then be made returnable the following term, and the judgment is ſuppoſed to be given on and relates to the return day of the writ of ſummons; therefore, if the vouchee (the tenant in tail) dies before the writ of ſummons is returnable [Sheepſhanks v. Lucas, 1 Burr. 410.] or on the day it is returnable, if it be a Sunday, as the court cannot ſit on a Sunday, and conſequently could not give the judgment till the Monday, the recovery will be bad. [Swann v. Broome, 3 Burr. 1595. S. C. 1 Sir W. Blac. Rep. 496. 526. S. C. in error, 6 Browne 132.]

* See note at the foot of p. 53 , and 27 Edw. I. ſt. 2; where it is provided, that ſuch as be not able to travel, and people that dwell in far countries from the Chancery, which plead or be impleaded, ſhall have a writ out of the Chancery to ſome ſufficient man that ſhall receive their attornies when need is.

or

or attornies jointly or ſeverally, whom or who the ſaid *E. and G.* before you, or two of you, will appoint or conſtitute, to gain or loſe in the ſaid plea, before our ſaid juſtices: and, therefore, we command you, or two of you, that you go in perſon unto the ſaid *E. and G.*, if they cannot conveniently travel to you, and receive *their* attorney or attornies jointly or ſeverally in form aforeſaid; and when you ſhall have received the ſaid attorney or attornies, you diſtinctly and plainly, without delay, certify us in our Chancery under your ſeals, or the ſeals of two of you, of the name or names of ſuch attorney or attornies, ſending back unto us this writ. Witneſs ourſelf at Weſtminſter, the 9th day of *April*, in the 35th year of our reign.

Appleyard ||.

Indorſement. By the Lord Chancellor of Great Britain, at the inſtance of the demandant.

L. C. *

Received vi. viij. *John Fanſhaw* ‡.

|| The curſitor's name.

* The Lord Chancellor's initials.

‡ The receiver of the fines. And the dedimus is now ſtamped with the words, *fine ſub judice deds.* round the initials of the receiver's name, inſtead of being ſigned by one of the Judges, as formerly.

The

(l l.)

The execution of this writ appears in the ſchedule, hereto annexed. Return.

K. L.
M. N.

(m m.)

Cornwall, to wit. Command *C. D.* that juſtly, &c. *he* render to *A. B. the manor* [&c.] which *he* claims, &c. Warrant of attorney.

Cornwall, to wit. *E. F. and G. his wife*, whom *C. D.* vouches to warranty, appoint in *their* ſtead *William Hands*, Gentleman, and *Richard Harvey*, Gentleman, their attornies jointly and ſeverally, againſt *A. B.* to gain or loſe in a plea of land, &c.

Taken and acknowledged by the ſaid *E. F. and G. his wife*, the 20th day of *April*, in the year of our Lord 1795. †

E. F.
The mark of
G. × *F.*

K. L. Seal.
M. N. Seal.

† The day and year the acknowledgement was taken muſt be certified, and the officers of the court are not to receive the writ of entry without. 23 Eliz. c. 3. ſ. 5.

(n n.)

(n n.)

* In the Common Pleas.

Affidavit of the acknowledgement of the warrant of attorney by a commissioner.

K. L. of Hemball, in the parish of Saint Austell, in the county of Cornwall, Gentleman, one of the attornies of his Majesty's court of *King's Bench*, and one of the commissioners named in the writ of dedimus potestatem, for receiving the attorney or attornies of *E. F. and G. his wife* maketh oath and saith that the knows the said *E. F. and G. his wife*; and that *they, and each of them* did duly sign and acknowledge, in the presence of this deponent, and of *M. N.* another commissioner named in the said writ, the warrant of attorney, a copy whereof is here annexed, on the day and year mentioned in the caption thereof: and that the said *E. F. and G. his wife*, and also this deponent and the said *M. N.* were, at the time of acknowledging and taking the said warrant of attorney, all of full age and competent understanding. And that the said *G.* was solely and separately examined apart from *her* said *husband*, and freely and voluntarily consented to and acknowledged *her* warrant of attorney aforesaid. And that the said *E. F. and G. his wife*, ~~separately~~

* Stamp 2s. See p. 57.

knew

knew that the ſaid warrant of attorney was intended for the ſuffering of a common recovery to paſs his, her, or their eſtates.

K. L.

Sworn at *Saint Auſtell, in the county of Cornwall*, the 22d day of *April*, in the year of our Lord 1795, before me,

Cha. Raſhleigh,
a Commiſſioner, &c

(*n n.*)

In the Common Pleas.

A. B. of . . . . *in the county of* . . . . . Gentleman, one of the attornies of his Majeſty's court of . . . and one of the commiſſioners named in the dedimus poteſtatem, for receiving the attorney or attornies of *C. D. and E. his wife*, [&c.] maketh oath and ſaith, that he knows the ſaid *C. D. and E. his wife* [&c.]; and that they and each (*or every*) of them did duly ſign and acknowledge, in the preſence of this deponent, and of *F. G.* another

General form of the affidavit when made by a commiſſioner.

commiſſioner named in the ſaid writ, the warrant (*or warrants*) of attorney, a copy whereof is hereunto annexed, on the day and year (*or ſeveral days and years*) mentioned in the caption (*or ſeveral captions*) thereof; and that the ſaid *C. D. and E. his wife* [&c.] and alſo this deponent, and the ſaid *F. G.* were, at the time of acknowledging and taking the ſaid warrant (*or warrants*) of attorney, all of full age and competent underſtanding; and that the ſaid *E.* was ſolely and ſeparately examined apart from her ſaid huſband, and freely and voluntarily conſented to and acknowledged her warrant of attorney aforeſaid; and the ſaid *C. D. and E. his wife* [&c.] reſpectively knew that the ſaid warrant (*or warrants*) of attorney was (*or were*) intended for the ſuffering of a common recovery to paſs his, her, or their eſtate [*or eſtates*] *. And this deponent further ſaid, that the razure (*or razures, interlineation or interlineations*) appearing in the ſaid original warrant (*or warrants*) of attorney was (*or were*) made before any of the parties ſigned the

* From here to be added in part, or in the whole, if any razure, &c. in the warrant or caption, as the caſe may require.

ſaid

ſaid warrant (*or warrants*); and the razure (*or razures, interlineation or interlineations*) appearing in the ſaid original caption (*or captions*) was (*or were*) made before the ſaid commiſſioners ſigned the ſame.

(*n n.*)

In the Common Pleas.

A. B. of . . . . . *in the county of* . . . . . one of the attornies of his Majeſty's court of . . . . . maketh oath, and ſaith, that he knows *C. D. and E. his wife* [&c.] and that they, and each (*or every*) of them, did duly ſign and acknowledge in the preſence of this deponent, the warrant (*or warrants*) of attorney, a copy whereof is hereunto, annexed on the day and year (*or ſeveral days and years*) mentioned in the caption (*or ſeveral captions*) thereof. And that they the ſaid *C. D. and E. his wife* [&c.] and *F. G.* and *J. K.* Gentlemen, the commiſſioners taking the ſaid acknowledgment (*or acknowledgments*) were, at the time of acknowledging

The like where the affidavit is not made by a commiſſioner.

and taking the ſaid warrant *(or warrants)* of attorney, all of full age, (*&c. as in the former affidavit*).

(o o.)

Judges order for the inſertion of the names of two living attornies in the warrant of attorney, the attornies named therein being dead.

A. B. Demandant,
C. D. Tenant,
E. F. Vouchee.

Upon reading the warrant of attorney for ſuffering a common recovery between the parties in this cauſe, and the copy annexed to the affidavit of the captions thereof, and *Rowland Lickbarrow* and *Henry Fothergill*, whoſe names are inſerted therein as attornies, being dead,—I order that the ſaid warrant of attorney, and copy thereof, be amended, by inſerting in the ſtead thereof the names *George Byard* and *Richard Bremridge*. Dated [&c.]

F. Buller.

(p p.)

Writ of entry.

* *George the Third*, by the grace of God, of Great Britain, France, and Ireland, King,

* Stamp 1l. 10s. See note in p. 57.

Defender

Defender of the Faith, &c. To the ſheriff of *Cornwall*, greeting. Command *L. D.* that juſtly and without delay *he* render to *A. B. the manor of S. with the appurtenances* which *he* claimeth to be *his* right and inheritance, and into which the ſame *L.* hath not entry, but after the diſſeiſin which Hugh Hunt thereof unjuſtly, and without judgement, hath made to the aforeſaid *A.* within thirty years now laſt paſt, as *he* ſaith, whereof *he* now complaineth, that the aforeſaid *L.* deforceth him; and unleſs *he* ſhall ſo do, and the ſaid *A.* ſhall give you ſecurity to proſecute *his* ſuit, then ſummon by good ſummoners the ſaid *L.* that *he* be before our juſtices at Weſtminſter *on the Morrow of the Purification of the bleſſed Mary*, to ſhew why *he* will not do it; and have you there the ſummoners. And this writ witneſſes ourſelf at Weſtminſter, the 16th day of *January*, in the 35th year of our reign. G. R †.

* *Appleyard.*

† The Judge's initials on his granting the allocatur. See p. 29.

† The Curſitor's name.

(q q.)

Allocatur. Upon reading the affidavit of *K.L.*, Gentleman, hereto annexed,—let the vouchee's appearance by attorney be received, purſuant to the warrant above mentioned.

* *G. Rooke.*

(r r.)

The Commiſſioners, &c. at the alienation office's marks on the back of the writ, with the Attorney General's ſignature.

† By *C. Flood*, for the fine beneath, becauſe it is affirmed that the within contents exceed not the yearly value of xxx. ‡

C. Flood. †
J. Scott. ¶

Edw. Cayley †.
J. Phillipps †.

J. C. ‖ *J. P.* §
xxx. ‡

* The Judge's ſignature.
† See notes in p. 68.
‡ The ſum the premiſes were valued at annually, *i. e.* 30l.
¶ The Attorney General's hand.
‖ The entering Clerk's ſignature.
§ The Commiſſioner's ſignature who ſet the fine.

(s s.)

(s s.)

Pledges of profecution { John Doe, Richard Roe.

The pledges and ſummoners indorſed on the back of the writ at the return office.

Summoners . . . . . { John Denn, Richard Fenn.

Edw. Archer, Eſq. Sheriff.

(u u.)

* *George the Third*, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. To our Juſtices of the bench, greeting. We ſend to you, incloſed in theſe preſents, the tenors of our certain writ of dedimus poteſtatem, directed to our truſty and well beloved *Sir H. I. Baronet*, and to our beloved *K. L. and M. N.* Gentlemen, for and concerning the receiving the attorney or attornies jointly or ſeverally, whom or who *E. F. and G. his wife* will appoint or conſtitute in their ſtead, Mittimus.

* Stamp 3s. 6d. See note in p. 51.

before

before the aforeſaid *Sir H. K. and M.*, or two of them, againſt *A. B.* to gain or loſe in a plea of land upon our writ of entry upon diſſeiſin in le poſt, depending before you between the aforeſaid *A. and C. D.* concerning the *manor of S. with the appurtenances*; which ſame *C. hath* vouched the ſame *E. and G.* to warrant to *him the manor aforeſaid, with the appurtenances*; alſo the return of our ſaid writ of dedimus poteſtatem; and likewiſe a warrant of attorney, received in that behalf, ſent into our Chancery, and remaining on the files of the ſame Chancery, commanding you, that inſpecting the ſaid tenors, you cauſe further to be done therein at the proſecution of the ſaid *A.* what of right, and according to the law and cuſtom of England, ſhall be meet to be done. Witneſs ourſelf at Weſtminſter, the 25th day of *April*, in the 35th year of our reign.

* *Appleyard.*

Tranſcript † *George the Third*, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. To our truſty and well beloved *Sir H. J. Baronet*,

* The Curſitor's name.

† Stamp 3s. 6d. See note in p. 51.

and

and to our beloved *K. L. M. N. O. P. and Q. R.* Gentlemen, greeting. Whereas our writ of entry upon diſſeiſin in le poſt is depending before our juſtices of the bench, between *A. B. and C. D.* concerning *the manor of S. with the appurtenances, in the pariſh of T. in the county of Cornwall*; and the ſaid *C.* appearing in full court before our ſaid Juſtices, hath vouched *E. F. and G. his wife* to warrant to *him the manor aforeſaid, with the appurtenances*, whereupon our writ of ſummons to warrant hath iſſued forth againſt the ſaid *E. and G.* returnable before our Juſtices *from Eaſter Day in three weeks*; and foraſmuch as the ſaid *E. and G. are* ſo infirm that *they* cannot, without the greateſt bodily danger, travel to Weſtminſter at the day in our ſaid writ of ſummons, to warrant contained to do and act thoſe things which then and there ſhall be expedient to be done in the ſame as we are informed; we, tendering the condition of the ſaid *E. and G.* have given to you, or two of you, power and authority to receive the attorney or attornies jointly or ſeverally, whom or who the ſaid *E. and G.* before you, or two of you, will appoint or conſtitute to gain or loſe in the ſaid plea before our ſaid Juſtices: and therefore, we command you, or two of you, that

that you go in perſon unto the ſaid *E. and G.* if *they* cannot conveniently travel to you, and receive *their* attorney or attornies, jointly or ſeverally, in form aforeſaid; and when you ſhall have received the ſaid attorney or attornies, diſtinctly and plainly, without delay, certify us in our Chancery, under your ſeals or the ſeals of two of you, of the name or names of ſuch attorney or attornies, ſending back unto us this writ. Witneſs ourſelf at Weſtminſter, the *ninth* day of *April*, in the *thirty-fifth* year of our reign. *Appleyard.* By the Lord Chancellor of Great Britain, at the inſtance of the Demandant. *L. C.* The execution of this writ appears in the ſchedule annexed. *K. L. M. N.* Recd. vi. vii. *John Fanſhawe. Cornwall*, to wit. —*E. F. and G. H. his wife*, whom *C. D.* vouches to warranty, appoint in their ſtead *William Hands*, Gentleman, and *Richard Harvey*, Gentleman, their attornies, jointly and ſeverally againſt *A. B.* to gain or loſe in a plea of land, &c. *E. F. the* × *mark of G. F.* Taken and acknowledged by the ſaid *E. F. and G. his wife*, the 20*th* day of *April*, in the year of our Lord *One thouſand ſeven hundred and ninety-five. K. L. M. N.*

(t t.)

*Eaſter Term, 35th George III.** Precipe to record the tenant's appearance at bar by, with the ſerjeant's and ſecondary's marks thereon.

Cornwall, to wit.—Command *C. D.* that juſtly, &c. *he* render to *A. B. the manor of S. with the appurtenances*, which *he* claims, &c. *Hands.* §

The tenant in perſon vouches to warranty "*E. F. and G. his* "*wife*, who by attorney vouch over †." ‡ At Bar.

Thomas Francis Martin.

‡ The tenant's appearance is recorded by the court. *W. Cockell.* ||

W. Cockell. ||

(x x.)

* *George the Third*, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. To the ſheriff of *Cornwall*, greeting. Sum- Writ of Summons.

* The term the writ of entry is returnable.

§ The Attorney's name.

† Where the recovery is with ſingle voucher, the part dotted is omitted; and where the recovery is with treble or farther voucher, there muſt be a ſimilar warranty over, inſerted here againſt every ſubſequent vouchee.

‡ The Secondary's marks.

|| The Serjeants ſignatures.

mon

mon by good ſummoners *E. F. and G. his wife*, that *they* be before our Juſtices at Weſtminſter, *from Eaſter Day in three weeks* †, to warrant to *C. D. the manor of S. with the appurtenances*, which *A. B.* in our court before our ſaid Juſtices at Weſtminſter, claims as *his* right againſt the ſaid *C.*, by our writ of entry upon diſſeiſin in le poſt; and whereupon, the ſaid *C.* in our ſaid court, *hath* vouched the ſaid *E. F. and G.* to be ſummoned in your county, to warrant againſt the ſaid *C. A.*; and have you there the ſummoners and this writ. Witneſs, *Sir James Eyre, Knight* *. At Weſtminſter, the *ſixth* day of *February*, in the 35*th* year of our reign (1).

Return. Summoners { John Denn, Richard Fenn.

Ralph Allen Daniel, Eſq. Sheriff.

† This writ ſhould be returnable the fourth return, incluſive, after the writ of entry [24 Geo. II. c. 48.]; but the Curſitor will take care to ſtate the proper return in the dedimus, with which it muſt here correſpond: and ſee the table of the returns [p. 85.] and where the recovery is with treble or farther voucher, the ſubſequent writs of ſummons muſt be returnable the fourth return incluſive after, and be teſted the fourth day incluſive, from the return of the preceding writ. (But ſee note in p. 109.)

* The Chief Juſtice of the court for the time being, now *John Lord Eldon*, or the ſenior of the puiſne judges, if there be no chief juſtice.

GEORGE

(*y.y.*)

† *GEORGE the Third*, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. To the ſheriff of *Cornwall*, greeting. Know you, that *A. B.* in our court, before our Juſtices, at Weſtminſter, hath recovered his ſeiſin againſt *C. D. of the manor of S. with the appurtenances*, by our writ of entry upon diſſeiſin in le poſt; and therefore, we command you, that without delay, you cauſe full ſeiſin of *the manor aforeſaid, with the appurtenances*, to be delivered to the ſaid *A.*, and in what manner you ſhall have executed this our Writ of ſeiſin.

(1) It muſt be teſted the fourth day inclusive from the return of the writ of entry; but here it may be obſerved that none of the writs ſhould be teſted on a Sunday, or other *dies non juridicus*, which are all days out of term, the Purification in Hilary Term, Aſcenſion Day in Eaſter Term, and the Nativity of Saint John the Baptiſt, if it happens to be in Trinity Term, unleſs it be Friday next after Trinity Sunday (32 Hen. 8. c. 21.); therefore in theſe caſes the writ ſhould be teſted on the day following, but the clerk of the recoveries will inſert the proper teſte as well as return, when he peruſes the draft of the writ.

† Stamp 3s. 6d. (ſee note in p. 51.)

precept

precept you make appear to our Juſtices at Weſtminſter *on the Morrow of the Aſcenſion of our Lord* *, and have you there this writ. Witneſs *Sir James Eyre, Knight.* § At Weſtminſter, the 28*th* day of *April*, in the 35*th* year of our reign †.

Return. By virtue of this writ to me directed, on the 5*th* day of *May* ‡, *in the year within written*, I cauſed full ſeiſin of *the manor within ſpecified, with the appurtenances*, to be delivered to the within named *A.*, as I am within commanded.

Ralph Allen Daniel, Eſq. Sheriff.

ENTRY

* It may be returnable any return above fifteen days in the term the writ of entry or laſt ſummons is returnable; but if there be not fifteen days in the term, and be above four, it muſt be made returnable forthwith; and if there be not four days, then it muſt be made returnable the firſt return of the next term. (But ſee the table of the Returns, p. 85.)

§ See note in p. 108.

† It muſt be teſted the fourth day, incluſive, after the return of the writ of entry, or laſt ſummons. But ſee note in p. 109.

‡ This is commonly ſome day (not being Sunday) between the teſte and return of the writ, by which a perſon could go from Weſtminſter to the premiſſes and return, ſuppoſing him to ſet off the day the writ is teſted; but the clerk of the recoveries will inſert the uſual time, though according to a recent caſe,

[*Goodright*

ENTRY *returnable on the Morrow of the Purification of the Bleſſed Mary.*

Entry on the Summons Roll.

* *Cornwall.*—*A. B.* in *his* proper perſon, demandeth againſt *C. D. the manor of S. with the appurtenances*, as *his* right and inheritance, and into which the ſaid *C.* hath not entry; but after the diſſeiſin which Hugh Hunt †

[Goodright on the demiſe of Burton *v.* Rigby. 2 H. Blac. Common Pleas, Term Rep. 46, and ſame caſe in error, 5 King's Bench, Term Rep. 177.] it ſeems all that is neceſſary is, that the ſeiſin ſhould be delivered after the judgment, and before the return of the writ; and therefore the return is ſufficient without naming the particular day; and though it ſtates the poſſeſſion to have been delivered after the conveyance to the tenant to the precipe; yet it is immaterial, and will notwithſtanding be ſufficient, if the proceedings are all in the ſame term.—14 Geo. II. c. 20. ſ. 5 and 9.

* To be entered on a plea-roll of the term, the writ of entry is returnable, in a ſtrong engroſſing hand, and to be begun about the breadth of the roll, which will be nine inches or ſo from the top, with a margin about the width of an inch; and if the entry does not come in on the firſt ſide of the roll (though it uſually does where the parcels, &c. are not uncommonly long) the lines ſhould be continued to about two inches of the bottom, and then a ſimilar margin ſhould be made on the other ſide of the roll, and the entry continued in like manner from the back of the firſt line on the front of the roll.

† A fictitious perſon, whoſe name is always made uſe of for this purpoſe.

thereof

thereof unjuſtly, and without judgement, made to the ſaid *A.* within 30 years, &c.* and whereupon he ſays, that he was ſeiſed of *the manor aforeſaid, with the appurtenances,* in his demeſne, as of fee and right in time of peace †, in the time of our Lord the King that now is, by taking the profits thereof to the value, &c. and into which, &c. and thereof he bringeth ſuit, &c.

‡ And the ſaid *C.* in his proper perſon, cometh and defendeth his right when, &c., and thereupon vouches to warrant § "*E.F. and G. his wife* to be ſummoned in the "*county* aforeſaid; let him have them here "*from Eaſter day in three weeks* || by the aid "of the court, &c. The ſame day is given "to the parties aforeſaid here, &c ¶, and

* 32 Henry VIII. c. 2. ſ. 3.

† 1 Inſt. 249. b.

‡ New line on the ſummons roll.

§ Where the recovery is with ſingle voucher, there of courſe is no ſummons roll, the whole entry being comprized in the recovery roll, and the parts here dotted againſt are omitted; but where it is with treble, or farther voucher, there muſt be ſimilar entries to the parts dotted againſt, in reſpect of every ſubſequent vouchee.

|| The return of the writ of ſummons. See p. 108.

¶ From here, to be entered in ſmall hand on the ſummons roll.

"upon

" upon this the ſaid *C.* appoints in his ſtead *
" *George Byard* and *Richard Bremridge* †,
" his attornies, jointly and ſeverally againſt
" the ſaid *A.*, to gain or loſe in the plea
" aforeſaid," &c.

(*a a a.*)

" ‡ Our Lord the King hath ſent to his Entry on the recovery roll.
" Juſtices of the Bench here his writ of mit-
" timus cloſed, together with the tenors of a
" certain writ of our ſaid Lord the King, of
" dedimus poteſtatem, for receiving a war-
" rant of attorney, and the return of the ſame
" writ, and alſo the warrant of attorney
" thereupon, received in theſe words: George
" the Third, [*ſo through the mittimus and*
" *tranſcript verbatim.* §"]

* Although the tenant appears at bar, yet the entry is always thus; but there is no actual appointment of the attornies.

† Two of the Prothonotary's clerks.

‡ To be entered on a plea-roll of the term: the writ of ſummons is returnable in a ſmall hand.

§ See p. 103 and 104.

" * Elſewhere, as it appears of † *the term*
" *of Saint Hilary laſt paſt*, upon the *three*
" *hundredth and ſeventy-fifth* roll it is thus
" contained:—*Cornwall*, *A. B.* in *his* proper
" perſon, demandeth againſt *C. D. the ma-*
" *nor of S.* [*So through the count againſt the*
" *tenant* ‡] and thereof he bringeth ſuit, &c.;
" and the ſaid *C.* in *his* proper perſon, com-
" eth and defendeth *his* right when, &c. [*ſo*
" *thro' the remainder of the entry of the ſum-*
" *mons-roll* §] to gain or loſe in the plea afore-
" ſaid, at which day here cometh, as well the
" ſaid *A.* in *his* proper perſon, as the ſaid *C.*
" by the ſaid *George Byard*, his attorney ‖;
" and the ſaid *E. and G.* being ſummoned,

* To be entered on the roll from here in a ſtrong engroſſing hand.

The entries on the recovery-rolls muſt be begun at the ſame diſtance from the top, with the ſame margin, and the lines continued to the ſame place, and the entry continued on the other ſide of the roll in the ſame manner as on the ſummons-roll; and when the firſt roll is full (for the entry of the recovery of which this is a precedent, always takes two rolls beſides the ſummons-roll) the entry muſt be gone on with and finiſhed on the ſecond roll in the ſame manner.

† Or " this ſame term."

‡ See p. 111.

§ See p. 112.

‖ See note in p. 113.

" &c.

" &c. likewiſe come by *Richard Harwey* *, " their attorney, and freely warrant *the* " *manor aforeſaid, with the appurtenances*, to " the ſaid *C.* &c. and hereupon the ſaid *A.* " demandeth againſt the ſaid *E. and G. te-* " *nants* by *their* own warranty, the *manor* " *aforeſaid, with the appurtenances*, in manner " aforeſaid, &c., and whereupon *he* ſaith " that *he* was ſeiſed of *the manor aforeſaid,* " *with the appurtenances*, in *his* demeſne, as " of fee and right in time of peace, in the " time of our Lord the King that now is, " by taking the profits thereof to the value, " &c. and into which, &c. and thereof *he* " bringeth ſuit," &c.

" †And the ſaid *E. and G. tenants*, by " *their* own warranty defend *their* right, " when, &c.; and thereupon further vouch " to warrant." *Thomas Francis Martin* ‡, who is preſent here in court in his proper perſon, and freely warranteth to *them the manor aforeſaid, with the appurtenances:* and hereupon the ſaid *A.* demandeth againſt the ſaid *Thomas Francis* tenant, by *his* own warranty, *the manor aforeſaid, with the appurte-*

* See p. 95.

† New line on roll.

‡ The common vouchee, being the bag-bearer of the cuſtos brevium.

nances, in manner aforesaid, &c. and whereupon *he* saith that *he* was seised of *the manor aforesaid, with the appurtenances*, in *his* demesne, as of fee and right in time of peace, in the time of our Lord the King that now is, by taking the profits thereof to the value, &c. and into which, &c. and thereof *he* bringeth suit, &c.

* And the said *Thomas Francis*, tenant, by his own warranty, defendeth his right, when, &c. and says, that the said *Hugh* did not disseise the said *A.* of the *manor aforesaid, with the appurtenances*, as the said *A.* by *his* writ and declaration above doth suppose; and of this *he* putteth himself upon the country, &c.

* And the said *A.* thereupon craveth leave to imparle, and *he* hath it, &c.; and afterwards the said *A.* cometh again here into court in this same term, in *his* proper person: and the said *Thomas Francis*, although solemnly called, cometh not again, but departeth, in contempt of the court, and maketh default. Therefore, it is considered ‡ that the said *A.* recover *his* seisin against the said *C.* of *the*

* New lines on the roll.

‡ See Tarrant demandant, Randall tenant, Sheppard, Esq. and other vouchees. — Barnes's Notes, title Amendments.

manor

manor aforeſaid, with the appurtenances, and that the ſaid *C.* have of the land of the ſaid "*E. and G.* to the value," &c.; and further, that the ſaid *E. and G.* have of the land of the ſaid *Thomas Francis* to the value, &c. and the ſaid *Thomas Francis*, in mercy, &c. * and hereupon the ſaid *A.* prays a writ of our Lord the King to be directed to the *ſheriff* of the *county* aforeſaid, to cauſe full ſeiſin of *the manor aforeſaid, with the appurtenances*, to be delivered to *him*; and it is granted to *him* returnable here *on the Morrow of the aſcenſion of our Lord*; ‖ "at which day "the ſaid *A.* cometh here into court in *his* "proper perſon: and the *ſheriff*, namely, "*Ralph Allen Daniel, Eſquire*, now re-"turneth that *he*, by virtue of the ſaid writ "to *him* directed, on the *5th* day of *May*, § "in this ſame term, ¶ cauſed full ſeiſin of the "*manor aforeſaid, with the appurtenances*, to "be delivered to the ſaid *A.* as by the ſaid "writ he was commanded," &c. ‡

* From here to be entered in a ſmall hand on the roll.

† The return of the writ of ſeiſin.

§ Or "laſt paſt," ¶ or "did cauſe."

‡ The awarding of the writ of ſeiſin, its execution and return by the ſheriff, muſt appear on the record,—Witham v. Lewis. 1 Wil. Rep. 48. and S. C. 4. Brown 504.

‖ The return of the writ of ſeiſin. See p. 109.

(b b b.)

Exemplification. * *George the Third*, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. To all to whom theſe preſents ſhall come, greeting. Know ye, that among the pleas of land inrolled at Weſtminſter, before *Sir James Eyre, Knight*, ‖ and his brethren our Juſtices of the Bench in the term of *Eaſter*, in the 35*th* year of our reign, upon the 198*th* and 199*th* rolls, it is thus contained:—Elſewhere [*ſo through the entry on the recovery-rolls* §, *word for word, without leaving any breaks at the end of the counts, and then conclude the exemplification thus:* ‡] All and ſingular which premiſſes, at the requeſt of the ſaid *A.* by the

* To be done on a fine ſkin of vellum or parchment, in a ſtrong German text hand, ſtamp 2l. *i. e.* by the 5th Will. III. c. 51. 5s.—9 and 10 Will. III. c. 25. 5s. 19 Geo. III. c. 66. 5s.—23 Geo. III. c. 58. 5s. and by the 37th Geo. III. c. 90.—11.

‡ But if the writ of ſeiſin be not returnable till the following term, the recital of the entry of the recovery in the body of the exemplification concludes with the award of the writ of ſeiſin at this mark ‖ in p. 117; and the part dotted againſt from here being the return, muſt be wrote in the ſame hand on the label of the exemplification.

‖ See note p. 101.

§ See p. 114.

tenor

tenor of theſe preſents we have commanded to be exemplified. In teſtimony whereof we have cauſed our ſeal, apppcinted for ſealing writs in the Bench aforeſaid, to be affixed to theſe preſents. Witneſs, *Sir James Eyre, Knight* *. At Weſtminſter, the 18*th* day of *May*, in the 35*th* year of our reign.

(c c c.)

(1) *Cornwall.* — Command *C. D.*, that juſtly, &c. *he* render to *A. B. the manor of S. with the appurtenances*, which *he* claims, &c.† Writ of Entry returnable *on the Morrow of the Purification of the Bleſſed Mary*. Witneſſed the 16th day of *January*. Entry on the remembrance-roll.

Pledges of proſecuting { *John Doe* and *Richard Roe.*

Summoners { *John Denn* and *RichardFenn.*(2)

Edward Archer, Eſq. Sheriff.

Tenant in perſon vouches to warranty *E. F. and G. his wife*, who by attorney vouch over *Thomas Francis Martin.*

* See note in p. 108.

(1) To be entered on the remembrance-roll of the term the writ of entry is returnable in a ſtrong en-

(d d d.)

Entry on the docket-roll.

* Entry in le poſt.
Double voc. with mitts.; &c. †
Cornwall, ‖ *B.* in perſon 198
§ *D.* in perſon 199

(e e e.)

Précipe with the tenant's warrant of attorney.

Oxfordſhire, to wit.—Command *A. B.* that juſtly, &c. *he* render to *C. D.* [*the parcels*] which *he* claims, &c.

groſſing hand to this mark †, and from thence to the end in a ſmall hand; the lines to be ruled about half an inch diſtance from each other.

(2) Where it is not the firſt entry on the roll, inſtead of theſe words, ſay "pledges and ſummoners as above."

‖ Demandant.

§ Tenant.

* To be entered on the roll in a ſtrong engroſſing hand; if the preceding entry on the docket-roll is of the ſame ſort, then inſtead of the words "entry in le poſt double voc," ſay "the like;" and if the ſummons and recovery-rolls are of the ſame term, ſay "ſummons and entry in le poſt, double voc. with mitts." &c. with the number of each roll; but the clerk of the recoveries will ſhew you how to do it.

Oxfordſhire,

Oxfordſhire, to wit.—*A. B.* appoints in *his* ſtead *H. J.* Gentleman, and *K. L.* Gentleman, *his* attornies, jointly and ſeverally againſt *C. D.* to gain or loſe in a plea of land, &c.

(fff.)

Precipe with the tenant and vouchee's warrants of attorney.

Warwickſhire, to wit.—Command *A. B.* that juſtly, &c. he render to *C. D.* [*the parcels*] which *he* claims, &c.

Warwickſhire, to wit.—*A. B.* appoints in *his* ſtead *H. J.* Gentleman, and *K. L.* Gentleman, *his* attornies, jointly and ſeverally againſt *C. D.*, to gain or loſe in a plea of land, &c.

Warwickſhire, to wit.—*E. F. and G. his wife*, whom *A. B.* vouches to warranty, appoint in *their* ſtead *M. N.* Gentleman, and *O. P.* Gentleman, their attornies, jointly and ſeverally, againſt *C. D.*, to gain or loſe in a plea of land, &c.

(*g g g.*)

Entry on the ſummons-roll, where the tenant and vouchee appear by attorney on warrants taken by dedimus poteſtatum.

Our Lord the King hath ſent to his Juſtices of the Bench here his writ of mittimus cloſed, together with the tenor of a certain writ of our ſaid Lord the King of dedimus poteſtatem, for receiving of a warrant of attorney and the return of the ſame writ; and alſo the warrant of attorney thereupon, received in theſe words: *George the Third*, [*ſo copy the mittimus and tranſcript of the dedimus for taking the tenant's warrant of attorney verbatim, and then proceed on thus:*]

Warwickſhire. — *C. D.* in *his* proper perſon, demandeth, [*ſo through the count againſt the tenant, and then follows the tenant's appearance and voucher of warranty, with the award of the writ of ſummons, as under:*]

And the ſaid *A.* by *H. J. his* attorney, cometh and defendeth *his* right, when, &c. and thereupon vouches to warranty *E. F. and G. his wife* to be ſummoned in the *county* aforeſaid. Let *him* have them here [*the return of the writ of ſummons*] by the aid of the court, &c.—the ſame day is given to the parties aforeſaid here, &c.

(*h h h.*)

(h h h.)

Entry on the recovery roll.

Our Lord the King hath ſent [*ſo through the mittimus and tranſcript of the dedimus for taking the vouchee's warrant of attorney, and then proceed on thus:*]

Warwickſhire.—*A. B.* in *his* proper perſon, demandeth againſt *C. D.* [*the parcels*] as *his* right and inheritance, and into which the ſaid *C.* hath not entry; but after the diſſeiſin which *Hugh Hunt*, thereof, unjuſtly and without judgement made to the ſaid *A.*, within thirty years, &c. [*ſo through the count againſt the tenant.* ‖]

And the ſaid *C.* by *J. K.* his attorney, cometh; and having heretofore vouched thereupon to warranty *E. F. and G. his wife*, who now by ſummons made to them in the county aforeſaid, by *L. M.* their attorney, alſo come and freely warrant [*the general words*] to the ſaid *C.* &c.; and whereupon he ſaith, [*ſo on as in the firſt precedent* §.]

‖ See p. 111.
§ See p. 115.

(i i i.)

(i i i.)

Entry of the recovery where both the tenant and vouchee appear at bar.

Middleſex.—*C. D.* in *his* proper perſon, demandeth againſt *A. B.* [*ſo through the entry of the count againſt the tenant as in the firſt precedent* ||, *and then proceed thus:*]

And the ſaid *A.* in *his* proper perſon, cometh and defendeth *his* right, when, &c. and thereupon vouches to warrant *E. F.* who is preſent here in court, in *his* own proper perſon, and freely warranteth [*ſo on as in the firſt precedent* ||.]

(k k k.)

Entry of the recovery of an advowſon in groſs, on a writ of right, with double vouchee, where the tenant and vouchee appear at bar.

Writ of Right returnable *from the day of the Holy Trinity in three weeks.*

Berkſhire.—*A. B.* in *his* proper perſon, demandeth againſt *C. D.* the advowſon of the church of *H.*, *otherwiſe J.* of which the ſaid *C.* hath unjuſtly deforced him, &c.: and whereof *he* ſaith that *he* was ſeiſed of the advowſon aforeſaid, as of fee and right in

† See p. 111. ‡ See p. 115.

the

time of peace, in the time of our Lord the now King; and being ſo ſeiſed, he preſented one *Hugh Hunt*, as his clerk, to the ſaid church, being vacant; who, on his preſentation, was admitted and inſtituted into the ſame in time of peace, in the time of the Lord the now King; which ſaid *Hugh* took the profits thereof as in great tythes, ſmall tythes, oblations, and obventions, to the value, &c. as in right of his ſaid church: and that ſuch is *his* right he offereth, &c.

And the ſaid *C.* in *his* proper perſon, cometh and defendeth the right of the ſaid *A.*, and *his* ſeiſin, when, &c. and all, &c. and whatſoever, &c. and moſtly of the advowſon aforeſaid, as of fee and right, &c. and calleth thereof to warranty *E. F. clerk*, who is preſent here in court in *his* proper perſon, and freely here in court warranteth to *him* the advowſon aforeſaid, &c. and thereupon the ſaid *A.* demandeth againſt the ſaid *E. F. tenant*, by *his* own warranty the advowſon aforeſaid, in form aforeſaid, &c.; and whereof *he* ſaith that *he* was ſeiſed of the advowſon aforeſaid as of fee and right in time of peace, in the time of the Lord the now King; and being ſo ſeiſed, preſented *Hugh Hunt*, *his* clerk, to the the ſaid church,

being

being vacant; who, on the preſentation of the ſaid *A.* was admitted and inſtituted into the ſame in the time of peace, in the time of the Lord the now King; which ſaid *Hugh* took the profits thereof as in great tythes, ſmall tythes, oblations, and obventions, to the value, &c. as in right of *his* ſaid church: and that ſuch is his right *he* offers, &c.

And the ſaid *E. F. tenant*, by *his* own warranty defendeth the right of the ſaid *C.*, and *his* ſeiſin, when, &c. and all, &c. and whatſoever, &c. and moſtly of the advowſon aforeſaid, as of fee and right, &c.; and further calleth thereof to warranty *Thomas Francis Martin* *, who is likewiſe preſent here in court, in his proper perſon, and freely here in court warranteth to *him* the advowſon aforeſaid, &c.; and hereupon the ſaid *A.* demandeth againſt the ſaid *Thomas Francis*, tenant, by his own warranty the advowſon aforeſaid, in form aforeſaid, and whereof *he* faith that *he* was ſeiſed of the advowſon aforeſaid as of fee and right in time of peace, in the time of the Lord the now King; and being ſo ſeiſed, preſented the ſaid *Hugh Hunt*, *his* clerk, to the ſaid church, being vacant; who, on the preſentation of

* The common vouchee.

the

the ſaid *A.* was admitted and inſtituted into the ſame in time of peace, in the time of our Lord the now King; which ſaid *Hugh* took the profits thereof, as of great tythes, ſmall tythes, oblations, and obventions, to the value, &c., as in right of *his* ſaid church: and that ſuch is *his* right he offereth, &c.

And the ſaid *Thomas Francis*, tenant, by his own warranty, defendeth the right of the ſaid *C.*, and his ſeiſin, when, &c., and all, &c., and whatſoever, &c., and moſtly of the advowſon aforeſaid, as of fee and right, &c.; and puts himſelf upon the grand aſſize of the Lord the King, and prays that the recognition thereof be made, whether he hath more right to hold the advowſon aforeſaid as tenant thereof by his warranty, as he holds the ſame, or the ſaid *A.* to have the ſame advowſon, as *he* above demands the ſame, &c.

And hereupon the ſaid *A.* prays leave to imparle, and *he* hath it, &c.; and afterwards the ſaid *A.* comes again into court now in this ſame term in his proper perſon; and the ſaid *Thomas Francis*, although ſolemnly demanded, cometh not again, but departed, in contempt of the court, and maketh

maketh default. Therefore it is conſidered that the ſaid *A.* recover *his* ſeiſin againſt the ſaid *C.* of the advowſon aforeſaid, to hold to *him* and *his* heirs, quit of the ſaid *C.* and *his* heirs, and of the ſaid *E. F.* and *his* heirs, and alſo of the ſaid *Thomas Francis* and his heirs for ever. And that the ſaid *C.* have of the land of the ſaid *E. F.* to the value, &c.; and further, that the ſaid *E. F.* have of the land of the ſaid *Thomas Francis* to the value, &c.; and the ſaid *Thomas Francis*, in mercy, &c. And hereupon the ſaid *A.* prays a writ of our Lord the King to be directed to the Sheriff of the county aforeſaid, to cauſe full ſeiſin of the advowſon aforeſaid to be delivered to *him*; and it is granted to him returnable here, *from the day of Saint Michael, in three weeks, &c.* at which day the ſaid *A.* cometh here into court in *his* proper perſon; and the Sheriff, namely *G. H. Eſq.* now returneth, that *he*, by virtue of the ſaid writ to *him* directed on the *eighteenth* day of *July laſt paſt*, cauſed full ſeiſin of the advowſon aforeſaid to be delivered to the ſaid *A.*, as by the ſaid writ *he* was commanded, &c.

A Copy

Entry of the reverſal of a recovery of ancient demeſne lands.

Eſſex to wit.—*Sir Cordell Firebrace, Baronet, and William Hollingworth, Eſquire, were* attached to anſwer *the Lord the now King*, of a plea whereas the ſaid *Lord the now King* was and ſtill is ſeiſed of the manor *of Havering Atte Bower, with the appurtenances*, in the *county* aforeſaid, in his demeſne, as of fee, *in right of his crown of England*, &c.; which ſaid manor, with the appurtenances, is, and from the time whereof to the contrary the memory of man doth not exiſt, was of the ancient demeſne of the crown of England, &c; and all and ſingular manors, lands, and tenements, with the appurtenances, which are held of the ſame manor for all the time aboveſaid, were pleadable and to be impleaded in the court of that manor, before the bailiffs and ſuitors of the ſame court for the time being, by the writ of the ſaid now King and his predeceſſors, late Kings and Queens of England, &c. of

right-close, and not elsewhere or otherwise, according to the custom of the said manor for all the time abovesaid, there used and approved. " Nevertheless, one *George* " *Campbell* (not being ignorant of the pre- " misses) contriving cunningly and deceit- " fully to defraud the said *Lord the now* " *King* of the profits of the said manor, " with the appurtenances, on the *7th* day " of *November*, in the *eleventh* year of the " reign of the said Lord the now King, pro- " secuted a certain original writ, of the said " Lord the now King, of entry upon the " disseisin in le post, out of the court of the " said Lord the now King of Chancery (the " same Court of Chancery being then at " Westminster, in the county of Middlesex) " against the said *Sir Cordell Firebrace and* " *William Hollingworth*, of *the manor of* " *Gobions, otherwise Uphavering, with the* " *appurtenances, and of eight messuages, six* " *gardens, two hundred acres of land, two* " *hundred acres of meadow, two hundred* " *acres of pasture, twenty acres of wood,* " *thirty acres of furze and heath, and com-* " *mon of pasture for all sorts of cattle, with* " *the appurtenants in Havering Atte Bower,*

" *in*

" *in the pariſh of Hornchurch, in the ſaid*
" *county of Eſſex.* By which, the ſaid
" Lord the now King commanded the
" ſame ſheriff that he ſhould command the
" ſaid *Sir Cordell Firebrace and William*
" *Hollingworth*, that, juſtly and without
" delay, they ſhould render to the ſaid
" *George Campbell* the ſaid *manor, tene-*
" *ments, and common, with the appurtenances,*
" by the name of *the manor of Gobions,*
" *otherwiſe Uphavering, with the appurte-*
" *nances,* [*&c. as before to Hornchurch*]
" which *he* claimed to be *his* right and in-
" heritance, and into which the ſame *Sir*
" *Cordell Firebrace and William Holling-*
" *worth have* not had entry, but after the
" diſſeiſin which Hugh Hunt thereof un-
" juſtly and without judgement had made
" to the aforeſaid *George Campbell*, within
" thirty years then laſt paſt, as *he* ſaid,
" and whereupon *he* complained that the
" ſaid *Sir Cordell Firebrace and William*
" *Hollingworth* deforced, and unleſs *they*
" ſhould ſo do, and the ſaid *George Camp-*
" *bell* ſhould give him the ſaid ſheriff ſecu-
" rity, that *his* ſuit ſhould be proſecuted.
" Then the ſaid Lord the King that now

" is, commanded the then ſheriff that he " ſhould ſummon by good ſummoners the " ſaid *Sir Cordell Firebrace and William* " *Hollingworth*, that *they* ſhould be before " the juſtices of the Lord the King that " now is at Weſtminſter, *from the Day of* " *Saint Martin, in fifteen days*, to ſhew " wherefore *they* would not do it, &c.; at " which *fifteen days, from the Day of Saint* " *Martin*, before the ſaid juſtices of the ſaid " Lord the now King of the bench, *Herb.* " *Triſt, Eſq.* then ſheriff of the ſaid *county* " of *Eſſex*, returned the ſaid writ ſerved and " executed; and thereupon at *the fifteen* " *days, from the Day of Saint Martin*, in the " ſaid court, before the then juſtices of the " ſaid Lord the now King, came the ſaid " *George Campbell* in *his* proper perſon, " and demanded againſt the ſaid *Sir Cordell* " *Firebrace and William Hollingworth, Eſq.* " the *manor, tenements, and common afore-* " *ſaid, with the appurtenances*, by the name " of *the manor of Gobions* [&c. *as before*] as " *his* right and inheritance, and into which " the ſaid *Sir Cordell* and *William* had not " entry, but after the diſſeiſin which Hugh " Hunt thereof unjuſtly and without judge-

" ment

" ment made to the aforeſaid *George Camp-*
" *bell*, within thirty years, &c. And where-
" upon *he* ſaid that *he* was ſeiſed of the
" *manor, tenements, and common aforeſaid,*
" *with the appurtenances*, in his demeſne, as
" of fee and right in time of peace, in the
" time of the ſaid Lord the now King, by
" taking the profits thereof to the value, &c.
" and into which, &c. and thereof *he* bringeth
" ſuit, &c. And the ſaid *Sir Cordell* and *Wil-*
" *liam*, in *their* proper *perſons*, came and de-
" fended *their* right when, &c.; and there-
" upon vouched to warrant *John Curven, Eſq.*
" and *Ann* his wife, who being ſummoned
" in the county aforeſaid, had *them* there
" *in eight days of the purification of the*
" *bleſſed Virgin Mary*, by the aid of the
" court, &c. The ſame day was given
" there to the parties aforeſaid; and upon
" this the ſaid *Sir Cordell and William* put
" in *their places Benjamin Johnſon* and *Ed-*
" *ward Borrett* their attorneys, jointly and
" ſeverally againſt the ſaid *George*, to gain
" or loſe of the plea aforeſaid, &c. At
" which day there came, as well the ſaid
" *George* in *his* proper perſon, as the afore-
" ſaid *Sir Cordell and William*, by *B. John-*

" *ſon, their* ſaid attorney; and the ſaid *John*
" *and Ann* being ſummoned, &c. likewiſe
" came by *Alexander Ballie their* attorney,
" and freely warranted *the manor, tenements,*
" *and common aforeſaid, with the appurte-*
" *nants*, to the ſaid *Sir Cordell and William*,
" &c. And thereupon the ſaid *George* de-
" manded againſt the ſaid *John and Ann*,
" *tenants* by *their* own warranty, the *manor*,
" *tenements, and common aforeſaid, with the*
" *appurtenants*, in manner aforeſaid, &c.;
" and whereupon *he* ſaid that *he was* ſeiſed
" of the *manor, tenements, and common afore-*
" *ſaid, with the appurtenants*, in his demeſne,
" as of fee and right in time of peace, in
" the time of the ſaid Lord the King that
" now is, by taking the profits thereof, to
" the value, &c. and into which, &c. and
" thereof *he* bringeth ſuit, &c. And the
" ſaid *John and Ann, tenants* by *their* own
" warranty, defended *their* right when, &c.
" and thereupon vouch over to warranty
" *Jacob Morland* *, who was then preſent
" in the ſame court in his proper perſon,
" and freely warranted to *them* the *manor*,
" *tenements, and common aforeſaid, with the*
" *appurtenants*, &c. And thereupon the

* The then common vouchee.

" ſaid

" ſaid *George* demanded againſt the ſaid " *Jacob*, tenant by his own warranty, the " *manor, tenements, and common aforeſaid,* " *with the appurtenances*, in manner afore- " ſaid, &c.; and whereupon *he* ſaid that *he* " was ſeiſed of the *manor, tenements, and* " *common aforeſaid, with the appurtenances,* " in his demeſne, as of fee and right in time " of peace, in the time of the Lord the " King that now is, by taking the profits " thereof to the value, &c. and into which, " &c. and thereof *he* bringeth ſuit, &c. " And the ſaid *Jacob*, tenant by his own " warranty, defended his right when, &c. " and ſaid that the ſaid Hugh had not diſ- " ſeiſed the ſaid *George* of the *manor, tene-* " *ments, and common aforeſaid, with the ap-* " *purtenants*, as the ſaid *George*, by *his* writ " and declaration aforeſaid, above ſuppoſed; " and of this he put himſelf upon the coun- " try, &c. And the ſaid *George* thereupon " craved leave to imparle; and *he* had it, " &c. And afterwards the ſaid *George* " came again there into the ſame court in " that ſame term in *his* proper *perſon*; and " the ſame *Jacob*, although ſolemnly called, " came not again, but departed, in contempt " of the court, and made default. There-

" fore it was adjudged that the ſaid *George*
" ſhould recover *his* ſeiſin againſt the ſaid
" *Sir Cordell and William*, of the *manor*,
" *tenements, and common aforeſaid, with the*
" *appurtenances*; and that the ſaid *Sir Cor-*
" *dell and William* ſhould have of the land
" of the ſaid *John and Ann*, to the value,
" &c.; and that the ſaid *John and Ann*
" ſhould have over of the land of the ſaid
" *Jacob* to the value, &c.; and the ſaid
" *Jacob*, in mercy, &c. as by the record
" thereof in the court of the Lord the King
" that now is, of the bench at Weſtminſter
" remaining, it more fully is manifeſt, and
" appears; which ſaid recovery, in form
" aforeſaid, had and ſuffered, was to the uſe
" of the ſaid *Sir Cordell Firebrace and Wil-*
" *liam Hollingworth, their heirs and aſſigns*
" *for ever*. By virtue of which ſaid reco-
" very, the ſaid *Sir Cordell Firebrace and*
" *William Hollingworth were* ſeiſed of the
" *manor, tenements, and common aforeſaid,*
" *with the appurtenances*, in *their* demeſne,
" as of fee; and by reaſon of the ſaid re-
" covery, the *manor, tenements, and common*
" *aforeſaid, with the appurtenances*, became
" frank-free, and to be impleaded and im-
" pleadable at the common law, and the
" ſaid

" ſaid recovery is in manifeſt deceit and " derogation of the juriſdiction of the ſaid " *Lord the now King*, to the damage of the " ſame *Lord the King* of 40*l.*" And whereof *Dudley Ryder, Eſq. Attorney-General of the ſaid Lord the now King, who proſecutes for the ſame Lord the King*, complains wherefore, whereas the ſaid *Lord the now King* was and ſtill is ſeiſed of the ſaid manor of *Havering Atte Bower, with the appurtenances*, in his demeſne as of fee, *in right of the crown of England*, &c.; which ſaid manor, with the appurtenances, is, and from the time whereof to the contrary the memory of man doth not exiſt, was of the ancient demeſne of the crown of England, &c.: And all and ſingular manors, lands, and tenements, with the appurtenances, which are held of the ſame manor for all the time aboveſaid, were pleadable and to be impleaded in the court of that manor, before the bailiffs and ſuitors of the ſame court for the time being, by the writ of the ſaid now King and his predeceſſors, late kings and queens of England, &c. of right-cloſe, and not elſewhere or otherwiſe, according to the cuſtom of the ſame manor for all the time aboveſaid, there uſed and approved.

Never-

Nevertheleſs, one *George Campbell* [*here is repeated as far as dotted in the margin*]. And this the ſame *Attorney-General of the ſaid Lord the King, for the ſame Lord the King*, is ready to verify, &c.

And the aforeſaid *Sir Cordell and William*, by *Thomas Lechmere* their attorney, come and ſay that they cannot deny the action of the ſaid *Lord the King* now, but that the ſaid manor of *Havering Atte Bower, with the appurtenances*, is, and from the time whereof the memory of man doth not exiſt to the contrary, was of ancient demeſne of the crown of England; nor but that all lands and tenements which are holden of the ſame manor for all the time aforeſaid, were pleadable and to be impleaded in the court of that manor, and not elſewhere, according to the cuſtom of the ſame manor; nor but that the ſaid *manor of Gobions, otherwiſe Uphavering, with the appurtenances, and the ſaid meſſuages, lands, and premiſſes, with the appurtenances*, in the declaration aforeſaid mentioned, are and at the time of ſuffering the ſaid recovery were parcel of the ſame manor of *Havering Atte Bower*; nor but that the ſaid *Lord the now King* is

ſeiſed

ſeiſed of the ſame manor of *Havering Atte Bower*, in *his* demeſne, as of fee *in right of his crown of England*; and the ſame *Sir Cordell and William* acknowledge the right of the ſaid *Lord the now King*, to proſecute his aforeſaid writ for the vacating and annulling the recovery aforeſaid, in the declaration aforeſaid mentioned. And upon this *Dudley Ryder, Eſq. Attorney-General of the ſaid Lord the King, who, &c.* ſays that *he* will not proſecute any further for the ſaid *Lord the King*, againſt the ſaid *Sir Cordell and William*, for any damage to be adjudged to the ſaid *Lord the King*, by reaſon of the premiſſes, but further to proſecute for the ſaid *Lord the King* upon that writ, for the ſame doth altogether revoke and refuſe; therefore the ſaid *Sir Cordell and William* are releaſed from the damages, &c. And the ſame *Attorney-General who, &c. for the ſame Lord the now King*, demands judgement of the court here, of and concerning the premiſſes aforeſaid: therefore it is conſidered that the ſaid recovery, in the ſaid declaration mentioned of the *manor, tenements, and common*, in the ſaid recovery contained and expreſſed, *with the appurtenances*, before the ſaid juſtices, in form

form aforeſaid, ſuffered, be revoked, annulled, vacated, and altogether held for nothing; and that the ſaid *Lord the King* be reſtored to his ſaid juriſdiction, and the ſaid *Sir Cordell Firebrace* and *William Hollingworth*, in mercy, and ſo forth. *

* Michaelmas Term, 12 Geo. II. rolls 21 and 22. —See the caſe reported by the name of The King againſt Firebrace, Bart. and others, in Barnes's Notes, title Judgements.

Bill

Bill for paſſing a Fine, acknowledged before Commiſſioners by Dedimus.

A againſt B and Wife. Trinity Vacation and Michaelmas Term 1799.

	Diſburſements.			Agent.			Attorney.		
	L.	*s.*	*d.*	*L.*	*s.*	*d.*	*L.*	*s.*	*d.*
Peruſing the title-deeds, and extracting parcels for the fine * — —	0	0	0	0	3	4	0	6	8
Drawing precipæ for writ of dedimus poteſtatem, and copy for the curſitor † — — — — —	0	0	0	0	2	6	0	5	0
Paid for the writ — — — — —	1	16	8	1	16	8	1	16	8
Fee thereon — — — — —	0	0	0	0	3	4	0	6	8
Drawing precipæ and concord ‡ — — — —	0	0	0	0	2	0	0	4	0
Fair copy and parchment § — — — —	0	0	6	0	1	10	0	3	2

* This is ſeldom done by the agent, therefore his firſt charge uſually is 2s. 7d. for the warrant, purſuant to the 25 Geo. III. c. 80.

† The writ of covenant is returnable before the dedimus is ſuppoſed to iſſue; but in fact the dedimus is now always ſued out firſt, and therefore inſerted ſo here.

‡ If the common length; if not, more accordingly at the rate of 1s. a folio.

§ Eight pence a folio.

Attending

	Disbursements.			Agent.			Attorney.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.
Attending the commissioners and parties settling the time and place for taking the acknowledgements thereon — — —	0	0	0	0	3	4	0	6	8
Paid the two commissioners taking the acknowledgements — —	1	6	8	1	6	8	1	6	8
Attending with the parties thereon — — —	0	0	0	0	3	4	0	6	8
Drawing and engrossing affidavit of the caption — —	0	0	0	0	2	0	0	4	0
Parchment, duty, and oath — — — —	0	3	6	0	3	6	0	3	6
Attending swearing the same †, — — — —	0	0	0	0	3	4	0	6	8
Drawing precipæ for writ of covenant, and copy for the cursitor —	0	0	0	0	1	3	0	2	6
Paid for the writ — — — — —	1	15	0	1	15	0	1	15	0
Fee thereon — — — — —	0	0	0	0	3	4	0	6	8
Attending at the Judge's chambers therewith, and afterwards for the allocatur — — — — —	0	0	0	0	3	4	0	6	8
Paid his clerk for the same — — —	0	4	0	0	4	0	0	4	0
Attending the commissioners at the alienation office, on their compounding the fines on the writ of covenant — — —	0	0	0	0	3	4	0	6	8

† If at a distance, then more accordingly.

Paid

	Disbursements.			Agent.			Attorney.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.
Paid the prefine	0	10	0	0	10	0	0	10	0
Ditto poſt-fine	0	15	0	0	15	0	0	15	0
Ditto fees at the alienation office	0	3	4	0	3	4	0	3	4
Ditto at the return office	0	1	6	0	1	6	0	1	6
Warrant of attorney, parchment, and filing *	0	0	6	0	0	10	0	1	4
Paid cuſtos brevium	0	3	8	0	3	8	0	3	8
Ditto King's ſilver †	0	2	10	0	2	10	0	2	10
Ditto chirographer	0	5	8	0	5	8	0	5	8
Ditto for the indentures of the fine ‡	0	6	6	0	6	6	0	6	6

* On filing the warrant, the clerk takes the arrears of your termages, if any; and 4d. more for poſt terminums, if the warrant is not filed till the term, after the writ of covenant is returnable, as it generally is not, where the fine is acknowledged before commiſſioners by dedimus.

† The fees here vary, as they depend as well upon the extra length of the entry, as on the number of captions where the acknowledgement is taken by dedimus, and alſo whether the premiſſes lie in any of the counties on the weſtern circuit or not, as the fees in theſe countries are 8d. more than in the other counties, and there is a fee of 4d. paid in reſpect of every caption.

‡ According to the length.

	Disburſements.			Agent.			Attorney.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.
Fee paſſing fine through the offices — — —	0	0	0	0	6	8	0	13	4
Carriage of parcels; letters, &c. — — —	0	2	6	0	5	0	0	7	6

Bill for a Fine acknowledged before the Chief Juſtice.

Taking inſtructions, peruſing the title-deeds, and extracting the parcels for the fine	—	—	—	—	0	0	0	0	3	4	0	6	8
Drawing precipæ and concord *	—	—	—	0	0	0	0	2	0	0	4	0
Fair copy and parchment	—	—	—	0	0	6	0	1	10	0	3	2
Ditto on paper †	—	—	—	0	0	1	0	1	5	0	2	9
Attending with the conuzors to the Chief Juſtice's houſe, on their acknowledging the fine	—	—	—	0	0	0	0	3	4	0	6	8

* One Shilling a folio.

† Eight pence ditto.

Paid

	Diſburſements.			Agent.			Attorney.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.
Paid the fees thereon — — — —	0	15	0	0	15	0	0	15	0
Drawing precipæ for the writ of covenant, and copy for the curſitor —	0	0	0	0	2	6	0	5	0
Paid for the writ — — — —	1	15	0	1	15	0	1	15	0
Fee thereon — — — — —	0	0	0	0	3	4	0	6	8

The reſt of the charges are the ſame as the twelve laſt articles in the bill by dedimus

L

Bill for a Fine, acknowledged in Court.

Taking inſtructions, peruſing the title-deeds, and extracting the parcels for the fine —— —— —	0	0	0	0	3	4	0	6	8
Drawing precipæ for the writ of covenant, and copy for the curſitor —	0	0	0	0	2	6	0	5	0
Paid him for the writ —— —— —	1	15	0	1	15	0	1	15	0
Fee thereon —— —— —— —	0	0	0	0	3	4	0	6	8

Paid

		Diſburſements.			Agent.			Attorney.		
		£.	s.	d.	£.	s.	d.	£.	s.	d.
Paid bag-bearer for delivering it at Weſtminſter *	—	0	1	0	0	1	0	0	1	0
Drawing precipæ and concord	—	0	0	0	0	2	0	0	4	0
Fair copy and parchment	—	0	0	6	0	1	10	0	3	2
Attending court on the conuzor's acknowledging the fine there	—	0	0	0	0	3	4	0	6	8
Paid fees thereon	—	0	4	6	0	4	6	0	4	6

The reſt of the charges are the ſame as the twelve laſt articles in the bill by dedimus

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Bill for a Recovery with double Voucher, the Tenant appearing in Perſon, and the Vouchee by Attorney, on a warrant acknowledged before Commiſsioners by Dedimus.

A, Demandant. B, Tenant.
C, Eſq. Vouchee. D, Common Vouchee.

D, Eſq.

* This he will do for your accommodation.

	Disburſements. £. s. d.	Agent. £. s. d.	Attorney. £. s. d.
Attending Mr. C. taking inſtructions for recovery to bar the intail of his eſtate at L.	0 0 0	0 3 4	0 6 8
Drawing leaſe and releaſe to make the tenant to the precipæ, and lead the uſes of the recovery three ſkins	0 0 0	1 10 0	3 0 0
Engroſſing	0 0 0	1 0 0	2 0 0
Parchment and duty	2 15 0	2 15 0	2 15 0
Attending the execution of the deeds	0 0 0	0 6 8	0 13 4
			1 15

Hilary Term, 1797.

Extracting the parcels out of the deeds for the recovery	0 0 0	0 3 4	0 6 8
			2 1 8

		Disburſements.			Agent.			Attorney.		
		£.	s.	d.	£.	s.	d.	£.	s.	d.
Drawing precipæ for the writ of dedimus poteſtatem to take the vouchee's warrant of attorney, and copy for the curſitor	—	0	0	0	0	2	9	0	5	0
Paid him for the writ	—	1	9	8	1	9	8	1	9	8
Fee thereon	—	0	0	0	0	3	4	0	6	8
Drawing precipæ and warrant of attorney	—	0	0	0	0	2	6	0	5	0
Fair copy and parchment	—	0	0	6	0	2	2	0	3	10
Copy thereof to annex to the affidavit of the caption and parchment	—	0	0	6	0	2	2	0	3	10
Attending the vouchee and two of the commiſſioners, fixing the time and place for the commiſſioners to take the warrant of attorney †	—	0	0	0	0	3	4	0	6	8
Paid the commiſſioners for taking the ſame	—	1	6	8	1	6	8	1	6	8
Attending with the vouchee thereon	—	0	0	0	0	6	8	0	13	4
Drawing and engroſſing affidavit of the caption	—	0	0	0	0	2	0	0	4	0
Parchment, duty, and oath	—	0	3	6	0	3	6	0	3	6

† If at a diſtance, more accordingly.

Attends

5. 1 2

		Disbursements.			Agent.			Attorney.		
		£.	s.	d.	£.	s.	d.	£.	s.	d.
Attending swearing thereto *	—	0	0	0	0	3	4	0	6	8
Drawing precipæ for the writ of entry, and copy for the cursitor †	—	0	0	0	0	2	6	0	5	0
Paid him for the writ	—	1	17	0	1	17	0	1	17	0
Fee thereon	—	0	0	0	0	3	4	0	6	8
Attending at the Judge's chambers with the warrant of attorney, affidavit of the caption, &c. and afterwards for his allocatur	—	0	0	0	0	3	4	0	6	8
Paid his clerk for the same	—	0	4	0	0	4	0	0	4	0
Attending the commissioners at the alienation office on their compounding the fine on the writ	—	0	0	0	0	3	4	0	6	8
Paid the fine	—	1	3	4	1	3	4	1	3	4
Paid the office fees thereon	—	0	3	4	0	3	4	0	3	4
Attending at the Attorney-General's chambers, leaving the writ of entry for his hand thereto, and afterwards for the same	—	0	0	0	0	3	4	0	6	8

* If at a distance, more accordingly.

† The cursitor makes out the writ of entry, and also the mittimus and transcript for you, by the dedimus and return.

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Paid

	Diſburſements.			Agent.			Attorney.		
	L.	*s.*	*d.*	*L.*	*s.*	*d.*	*L.*	*s.*	*d.*
Paid the Attorney-General thereon and clerk * — —	0	10	6	0	10	6	0	10	6
Returning and inrolling the writ of entry — —	0	1	6	0	2	3	0	3	0
Drawing precipæ to record the tenant's appearance at bar by, and copy † — —	0	0	0	0	2	6	0	5	0
Entering ſame on the remembrance-roll ‡ —	0	0	0	0	2	0	0	4	0
Agent's appearing in court, as tenant to the precipæ —	0	0	0	0	3	4	0	6	8
Paid ſerjeant's clerk, the Prothonotary and Serjeant's fees thereon §	0	19	0	0	19	0	0	19	0
Drawing count againſt the tenant, with award of ſummons againſt the vouchee and copy † — —	0	0	0	0	2	8	0	5	4
Entering it on the roll ‖ — —	0	0	0	0	1	4	0	2	8

* Ten ſhillings is the Attorney-General's fee, but the 6d. is now uſually given to the clerk.

† One ſhilling and four-pence a folio.

‡ One ſhilling a folio.

§ *i. e.* Serjeant 12s. Prothonotary 7s.

‖ Eight pence a folio.

2.1672

	Disburſement.			Agent.			Attorney.		
	L.	*s.*	*d.*	*L.*	*s.*	*d.*	*L.*	*s.*	*d.*
Docketing	0	0	0	0	0	6	0	1	0
Writ of ſummons	0	4	3	0	9	3	0	14	3
Term-fee for demandant and tenant	0	0	0	0	6	8	0	13	4
Carriage, porterage, &c.	0	5	0	0	5	0	0	5	0
Eaſter Term.									
Returning and enrolling the writ of ſummons	0	1	6	0	2	3	0	3	0
Paid curſitor for the mittimus and tranſcript	1	3	6	1	3	6	1	3	6
Fee thereon	0	0	0	0	3	4	0	6	8
Entering them on the roll †	0	0	0	0	4	0	0	8	0
Drawing the recovery and copy *	0	0	0	0	8	8	0	17	4
Entering it on the roll †	0	0	0	0	6	6	0	13	0
Writ of ſeiſin	0	4	3	0	9	3	0	14	3

* One ſhilling and four pence a folio.

† Eight pence a folio.

5 19 4

		Disburſement.			Agent.			Attorney.		
		L.	*s.*	*d.*	*L.*	*s.*	*d.*	*L.*	*s.*	*d.*
Returning and enrolling it	—	0	1	0	0	2	3	0	3	0
Drawing the exemplification of the recovery and copy	—	0	0	0	0	2	0	0	4	0
Exemplifying the whole recovery *	—	0	0	0	1	1	4	1	6	8
Paid for the parchment and duty	—	2	6	0	2	6	0	2	6	0
Paid ſealing and box	—	0	5	0	0	5	0	0	5	0
Paid prothonotary's fees for the entries, &c.	—	1	5	0	1	5	0	1	5	0
Term-fee for all the parties	—	0	0	0	0	13	4	1	6	8
Carriage and porterage; letters, &c.	—	0	10	6	0	15	9	1	1	0

From this bill, and the notes under it, any other may be eaſily drawn, and therefore the compiler thought it unneceſſary to inſert more.

7.17.4

* One ſhilling and eight pence a folio.

FINES.

OFFICES, AND WHERE KEPT.	TERM.	WHEN OPEN. (1)		VACATION.	
	Morning.	Afternoon.	Morning.	Afternoon.	
Curfitor's office, Chancery-lane — — —	11 to 4	6 to 8	11 to 2	(2)	
Judge's chambers, Serjeant's Inn — — —	10 — 2	5 — 8	10 — 1	5 to 8	(3)
Alienation office, No. 7, King's Bench Walk, Temple —	11 — 1	3 — 5	11 — 1	3 — 5	(4)
Return, No. 2, Tanfield Court, ditto — —	10 — 1	4 — 8	10 — 1	5 — 6	
Warrant of attorney, No. 3, Pump Court, ditto —	10 — 1	4 — 7	10 — 1	4 — 6	
Cuftos brevium, No. 3, Brick Court, ditto — —	11 — 1	5 — 7	11 — 1	5 — 6	(5)
King's filver, No. *, Elm Court, ditto — —	11 — 1	5 — 6	11 — 1	5 — 6	(5)
Chirographers, No. †, Middle Temple-lane — —	10 — 2	4 — 7	10 — 2	4 — 7	

* There is no number on the door; but the office is on the ground-floor, at the north-weft corner of the court.

† Neither is there any number on this door; but it is nearly oppofite the cuftos brevium's.

The offices thro' which fines and recoveries paſs, with the places where they are now kept, and the times when they are refpectively open.

RECOVERIES.

OFFICES, AND WHERE KEPT.	TERM.		WHEN OPEN.	VACATION.
	Morning.	Afternoon.	Morning.	Afternoon.
Curfitor's office, Chancery-lane — — —	11 to 4	6 to 8	11 to 2	(2)
Judge's Chambers, Serjeant's Inn — — —	10 — 2	5 — 8	10 — 1	5 to 8(3)
Alienation office, No. 7, King's Bench Walk, Temple —	11 — 1	3 — 5	11 — 1	3 — 5(4)
Return, Prothonotary's Office, No. 2, Tanfield Court —	10 — 1	4 — 8	10 — 1	5 — 6
Clerk of the recoveries, Prothonotary's — —	10 — 1	4 — 8	10 — 1	5 — 6
Seal office, No. 3, Inner Temple-lane — —	11 — 1	4 — 7	11 — 1	4 — 6

(1) Except moft of the red letter days in the almanac, which are kept at the different offices; but it feems only fuch are legal as be authorized by the act of the 5th and 6th Edward VI. c. 3. namely, all Sundays in the year, and the following feaft-days, the Circumcifion of our Lord, the Epiphany, the Purification of the Virgin Mary, Saint Mathew, the Annunciation of the Virgin Mary, Saint Mark, Saint Philip and Jacob, the Afcenfion of our Lord, the Nativity of Saint John the Baptift, Saint Peter, Saint James, Saint Bartholomew, Saint Matthew, Saint Michael, Saint Luke, Saint Simon and Jude, All Saints, Saint Andrew, Saint Thomas, the Nativity of our Lord, Saint Stephen, Saint John, the Holy Innocents, and Monday and Tuefday in Eafter Week, and Monday and Tuefday in Whitfun week; or thofe which are

eſtabliſhed

eſtabliſhed by ſome other act of parliament, as the 30th of January, by the 12 Charles II. c. 30.; the 5th of November, by the 3 James I. c. 1.; or be ſtate-holidays, as the King's acceſſion, or birth-day; and therefore it was held in Piggins v. Willie, 2 Sir W. Blac. Rep. 1187, and Sparrow v. Cooper, ibid. 1314, that the 11th of June, Saint Barnabas, was no legal holiday; and there was the like deciſion in Pater v. Croome, 7 King's Bench, Term Rep. 336 as to the 29th of May, King Charles II. reſtoration (but as to that day, ſee the 12 Chas. II. c. 14. where it ſeems to be directed to be kept as an holiday); indeed it was ſaid by Mr. Juſtice Blackſtone, in Sparrow v. Cooper, that the officers of the court ought to be ready to execute their duty upon all days when the court ſit at Weſtminſter, at all convenient hours, and that there were only three days in the year, *i. e.* Candlemas, the Aſcenſion, and Saint John the Baptiſt, when the court does not ſit, if they happen to be in term time, as two of them conſtantly are.

(2) Uncertain of an afternoon, except the evenings before ſeal-days; and no attendance of an afternoon in the middle of the long vacation.

(3) For a week before, and about a fortnight after, each term, except when the Judges are on the circuit; but except then, there are always one of the Judges chambers open from eleven in the morning till one.

(4) Except in the middle of the long vacation, when the commiſſioners only attend twice a week, now generally Mondays and Thurſdays, from eleven to twelve.

(5) No attendance of an afternoon in the middle of the long vacation.

THE END.

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